



Carlisle Mine
MSHA ID: 12-02349

Spill Prevention, Control and Countermeasures Plan

Company: Sunrise Coal LLC.
Mine Name: Carlisle Mine
Mine ID: 12-02349
Mine Address: 1466 East State Road 58 – Carlisle, Indiana 47838
Phone Number: (812) 398-2200



Carlisle Mine
MSHA ID: 12-02349

Quick Reference: What to do in the event of an oil spill

1. Do not take any actions that would endanger yourself or others.
2. Remember that the goal is to act quickly to keep oil from entering a stream and leaving the property. As soon as possible, consistent with this goal, contact your supervisor. Also, immediately call the person designated to coordinate spills at this facility (the "Designated Person").
3. If material is still flowing, shut off the source of the spill. Turn off the valve, change the position of the container, stop up the leak, or do whatever is appropriate to the situation to stop or reduce flow.
4. Divert the spill away from ditches where it could mingle with water and flow away. Use earth moving equipment to build berms, dikes or ditches, and/or place absorbent booms or pillows between the spill and the ditch.
5. Contain the spill to as small of an area as possible. Construct berms, dikes, ditches and/or use absorbent booms or pillows.



Carlisle Mine
MSHA ID: 12-02349

Table of Contents

1. **Introduction**
2. **Professional Engineer Review and Certification [112.3 (d)]**
3. **Plan Availability [112.3 (e)]**
4. **Plan Amendments and Review [112.5]**
5. **Management Approval [112.7]**
6. **Plan Organization [112.7]**
7. **Plan Conformance [112.7 (a)(1)]**
8. **Physical Layout [112.7 (3)]**
9. **Oil Storage Containers and Capacities [112.7 (a)(3)(i)]**
 - 9.1 *Containers Not Addressed*
 - 9.2 *Bulk and Non-Bulk Containers*
10. **Routine Handling Procedures for Discharge Prevention [112.7 (a)(3)(ii)]**
11. **Structures and Equipment to Prevent Discharges [112.7 (a)(3)(iii)]**
 - 11.1 *Secondary Containment for Bulk Storage Containers*
 - 11.2 *Oil-Filled Electrical Equipment*
12. **Spill Response [112.7 (a)(3)(iv) and (5)]**
 - 12.1 *Initial Spill Response*
 - 12.2 *Direct Countermeasures*
13. **Spill Cleanup [112.7 (a)(3)(iv) and (a)(5)]**
 - 13.1 *Cleanup Responsibility*
 - 13.2 *Cleanup Materials and Equipment*
 - 13.3 *Cleanup Procedures*
14. **Disposal of Recovered Material [112.7 (a)(3)(v)]**
15. **Contact List [112.7 (a)(3)(vi)]**
16. **Spill Reporting [112.7 (a)(4)]**
 - 16.1 *National Response Center (NRC)*
 - 16.2 *US EPA Region 5*
 - 16.3 *State Reporting Requirements*
17. **Spill Predictions [112.7 (a)(5)]**
18. **Structures and Equipment to Prevent Discharges [112.7 (c)(1)]**
19. **Determination of Practicality [112.7 (d)]**
20. **Inspections, Tests and Records [112.7 (e)]**
21. **Personnel Training [112.7 (1)(1) & (3)]**
22. **Designated Person [112.7 (1)(2)]**
23. **Site Security [112.7 (g)]**
 - 23.1 *Access Prevention [112.7 (g)(1)]*
 - 23.2 *Valves [112.7 (g)(2)]*
 - 23.3 *Pumps [112.7 (g)(3)]*
 - 23.4 *Loading/Unloading [112.7 (g)(4)]*
 - 23.5 *Lighting [112.7 (g)(5)]*
24. **Additional Requirements [112.7 (j)]**
25. **Drainage from Diked Areas [112.8 (b)(1) & (2) and (c)(3)]**
26. **Drainage from Undiked Areas [112.8 (b)(3)]**
27. **Bulk Storage Containers [112.8 (c)(1), (2), (6) and (10)]**
28. **Portable Oil Storage Containers [112.8 (c)(11)]**
29. **Substantial Harm Certification [40 CFR Part 112, Appendix C]**
30. **Compliance with 40 CFR 109**
31. **Corrective Measures**

Spill Prevention, Control, and Countermeasures Plan

Last Modified: June 30, 2016

Page | 3 of 57



Carlisle Mine
MSHA ID: 12-02349

Attachments

Attachment 1	Plan Review Record
Attachment 2	Plan Review Record Facility Layout
Attachment 3	Table of Bulk Storage Containers
Attachment 4	Spill Reporting Requirements & Contact Information
Attachment 5	Required Content for EPA Reports
Attachment 6	Spill Reporting Form
Attachment 7	Spill Predictions: Volumes, Rates, Directions and Controls
Attachment 8	SPCC Inspection Checklist
Attachment 9	Dike Drainage Record
Attachment 10	Substantial Harm Certification

Appendices

Appendix 1	40 CFR 112 (SPCC Rules)
Appendix 2	1AC 2-6.1 (Indiana Spill Rules)
Appendix 3	40 CFR 109 (Spill Contingency Plan Rules)
Appendix 4	40 CFR 112 Federal Register / Vol. 67, No. 137 / Rules and Regulations <i>(Selected Text)</i>



Carlisle Mine

MSHA ID: 12-02349

1. Introduction

Sunrise Coal LLC. (Sunrise), operates an underground coal mine, known as the Carlisle Mine, near Carlisle, IN. The Carlisle Mine includes a surface facility associated with underground mining. That surface facility (facility) is the subject of this plan.

40 CFR 112 stipulates that industrial facilities must have a plan to prevent discharges of oil to navigable waters (A Spill Prevention, Control, and Countermeasure Plan (SPCC, or Plan) if they meet the following criteria:

- Are not transportation related facilities [40 CFR 112.1 (b)].
- Have an aggregate above ground oil storage capacity in excess of 1,320-gallons (gal.) (excluding containers with a capacity of less than 55-gals.) [40 CFR 112.1 (d)(2)(ii)] or an aggregate underground storage capacity in excess of 42,000-gals. [40 CFR 112.1 (d)(2)(i)].
- Are situated such that there is a "reasonable expectation" that spillage of oil from the facility could enter into a navigable water, or the shoreline thereof, in quantities that may be harmful [40 CFR 112.1 (b)].

This facility is not a transportation related facility and it has an aggregate above ground storage capacity in excess of 1,320-gals.

The definition of "navigable waters" is not straightforward. A distinction is made between navigable streams and navigable waters. Navigable streams are streams large enough to be used for navigation (regardless of whether or not they are so used). Navigable waters include navigable streams, but also other streams and water bodies which are situated such that detrimental impacts to those water bodies could also have a detrimental impact to the navigable stream.

This facility is not located on a navigable stream. The North Portal facility is located approximately 1.0 miles east of Busseron Creek, which is likely a navigable stream. Drainage from this facility flows west through the drainage ditches to a sediment pond then to a small ditch for approximately 0.8 miles, then via the Middle Fork of Busseron Creek approximately 1.0 miles to Busseron Creek. The Main Portal drains through various sediment ponds then to the south into Burger ditch which flows approximately 1.2 miles to Marsh Creek then approximately 16.5 miles to the Wabash River.

Whether or not there is a reasonable expectation that oil spilled at this facility might have a potential to be harmful to navigable waters is beyond the scope of this document. Since no finding is made as to whether or not there is a reasonable expectation that oil spilled at this facility might have a reasonable potential to be harmful to navigable waters, an SPCC Plan has been prepared. This document constitutes the SPCC Plan developed for the Carlisle Mine in order to comply with the requirements of 40 CFR Part 112.



Carlisle Mine
MSHA ID: 12-02349

In addition to the term "navigable waters", other operable terms are "Waters of the U.S." and "Waters of the State". For the purpose of this plan, those terms are assumed to have the same meaning and are referred to collectively as "waters". The definition of waters is important because, as will be detailed later in this document, what actions are required in the event of a spill depend on whether or not the spill has or threatens to reach waters. The definition of waters is very complicated. At the current time, the definitions being used by regulatory agencies is so broad that almost any discharge of oil could be considered as regulated by the SPCC rules. However, in both Federal and State definitions, waters do not include impoundments made expressly for the purpose of treating water prior to discharge. As will be detailed later in this document, all of the drainage from this facility drains to (1) of several retention ponds. These retention ponds, in conjunction with other measures, themselves constitute (1) of the measures that are utilized to prevent the discharge of oil into the environment, and they were constructed expressly for this facility as pollution control devices under IC 14-34 (Indiana Surface Mine Act). As a result, for the purpose of this document, it is assumed that waters includes all bodies of water that are downstream of, or which do not drain to, a retention basin located on the facility. In general, this means that the purpose of this plan is to prevent the discharge of oil into unnamed swales or unnamed tributaries downstream of the facility's sediment ponds.

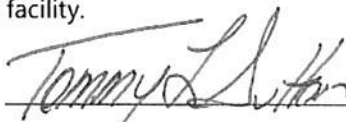
This plan is appurtenant only to spillage of oil and oil based products. The SPCC rules are applicable to all oils, including petroleum based oils, synthetic oils, mineral oils, animal oils, and vegetable oils. At this facility the products most commonly handled which would be subject to this plan would include diesel fuel, gasoline, kerosene, hydraulic fluid, greases and other lubricants, antifreeze and motor oil. Spillage of other substances, such as hazardous materials and objectionable substances, are also regulated – but are not necessarily addressed by this plan.

There may be aspects of this plan that have not yet been implemented. If that is the case, any measures needed in order make this facility consistent with this plan are addressed in Part 31 – Corrective Measures. For ease of review, compilation, and revision; this plan (except for Part 31) is written in present tense.

2. Professional Engineer Review and Certification [112.3 (d)]

SPCC Plans must be reviewed and certified by a Registered Professional Engineer. The Professional Engineer's signature and stamp below certifies that:

- The Professional Engineer is familiar with the requirements of 40 CFR Part 112;
- The Professional Engineer or his agent has visited and examined the facility;
- The plan has been prepared in accordance with good engineering practices, including consideration of applicable industry standards and with the requirements of 40 CFR Part 112;
- Procedures for required inspections and testing have been established; and,
- The plan is adequate for the facility.


Signature

6/30/16
Date

880247
Registration Number

INDIANA
State

Spill Prevention, Control, and Countermeasures Plan



Carlisle Mine
MSHA ID: 12-02349

3. Plan Availability [112.3 (e)]

This plan will be kept in the office building located at the Main Portal facility and will be available to US EPA representatives or other appropriate regulatory personnel during normal working hours.

4. Plan Amendments and Review [112.5]

Per 112.5 (a), this plan must be amended:

- Whenever the facility makes a change in the design, construction, operation, or maintenance of the facility that may affect its potential for an oil discharge;
- After any release or spill to evaluate if the plan was followed and if the plan was adequate to prevent and/or respond to the release or spill.

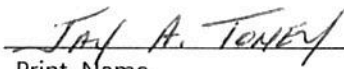
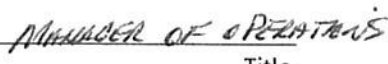

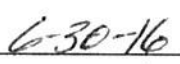
In addition, per 112.5 (b), this plan must be reviewed and evaluated at least once every 5-years (yr.) to ensure its accuracy and to determine if additional or more effective spill prevention and control technology that is applicable to the facility must be added. After such a review, this plan must be amended within 6-months (mo.) if the review indicates an amendment is needed.

Attachment 1 consists of a log showing when and by whom the plan was reviewed. The designated person (See Part 22 regarding designated person) will ensure that this plan is reviewed as required. The person reviewing the plan will sign the log (Attachment 1) indicating that he or she has reviewed the plan and also indicating whether or not the plan needs to be amended. The changes specified in the amended plan, if any, must then be implemented as soon as possible, but no later than 6-mo. after amending this plan.

Per 112 (c), a Professional Engineer must certify technical amendments to this SPCC Plan. Changes to this plan that do not affect the potential for a discharge do not require certification by a Professional Engineer.

5. Management Approval [112.7]

The signature below certifies that Sunrise management fully approves of this plan and will commit the necessary resources to fully implement this plan as described.

 _____ Print, Name	 _____ Title
 _____ Signature	 _____ Date



Carlisle Mine
MSHA ID: 12-02349

6. Plan Organization [112.7]

This plan follows the sequence specified in 40 CFR Part 112. A chart which cross references the requirements in 40 CFR Part 112 with the sections in this plan is therefore not provided. If a regulation is not addressed herein, it can be assumed that that regulation is considered to be inapplicable.

7. Plan Conformance [112.7 (a)(1)]

This plan has been prepared in accordance with the applicable requirements in 40 CFR Part 112. Details regarding compliance with these rules are contained herein. There may be aspects of this plan that have not yet been implemented. If that is the case, any measures needed in order make this facility consistent with this plan are addressed in Part 31 – Corrective Measures. For ease of review, compilation, and revision; this plan (except for Part 31) is written in present tense.

8. Physical Layout [112.7 (3)]

This facility is the surface facility associated with an underground mine. This facility contains a slope and a man shaft whereby raw coal from the underground workings is transported to the surface. Raw coal is stored in piles on the surface before being transported via conveyors into a wet process coal cleaning plant. The coal cleaning plant produces a stream of clean coal, a stream of coarse refuse and a stream of fine, slurried refuse. The clean coal is stored in piles on the surface before being loaded for transport into trucks via a truck loading facility or into trains via a train loading facility. The fine coal refuse slurry is pumped to ponds for settling and disposal. The coarse coal refuse is transported to disposal piles via off-road trucks. The coarse refuse may be fashioned into levies used to contain the fine refuse. Also located at this facility are equipment and supply storage yards, equipment and supply storage buildings, equipment repair and maintenance buildings, mine management buildings, miner showering/dressing facilities and training facilities. To facilitate reclamation once activities are complete, soil material has been removed from certain areas and stored in stockpiles. Drainage from all these areas is routed via ditches to ponds where water is monitored pursuant to NPDES permits prior to discharge into receiving streams. Mobile equipment is used in the underground mine process. Mobile earth moving equipment is also used on the surface to construct earthen structures, remove and stockpile soil, haul coarse refuse and maintain roads.

The layout of the facility is shown on Attachment 2; it also shows the location of each applicable oil storage container or container facility, and it shows the boundary of the entire facility. The facility boundary shown on Attachment 2 coincides with the surface effects portion of the facility's federal SMCRA permit (Permit U-00028).



Carlisle Mine
MSHA ID: 12-02349

9. Oil Storage Containers and Capacities [112.7 (a)(3)(i)]

As mentioned above, the location of all applicable oil storage containers is shown on Attachment 2. Attachment 3 consists of a table listing applicable oil storage containers, the material contained, the type of construction and their respective capacities.

9.1 Containers Not Addressed

Containers less than 55-gals. are not required to be and are not addressed by this plan. Motive Power Containers (i.e. on-board storage containers used primarily to power the vehicles upon which they are located) are not required to be and are not addressed by this plan. All other containers that store oil and that have a capacity of 55-gals. or larger must be and are addressed by this plan.

At any given time, there may be contractors on site who are utilizing mobile oil storage containers. Those containers are not considered to be part of this facility and are therefore not necessarily addressed by this plan. Contractors using mobile oil storage containers should have their own plans as applicable.

9.2 Bulk and Non-Bulk Containers

A distinction is made between bulk storage containers and non-bulk storage containers. Oil-filled operating equipment is not bulk-storage containment. Oil filled electrical equipment is considered a type of oil-filled operating equipment (i.e., not bulk storage). All other containers that are 55-gals. or larger are bulk-storage containers. Non-bulk storage containers must meet all the requirements of 40 CFR 112 except for the requirements of 40 CFR 112.8 (c). Bulk storage containers must meet the requirements of 40 CFR 112, including 40 CFR 112.8 (c). At this facility there is oil-filled electrical equipment and bulk oil storage containers. There is no other oil-filled operating equipment.

10. Routine Handling Procedures for Discharge Prevention [112.7 (a)(3)(ii)]

All bulk storage tanks are loaded directly from fuel supplier tank trucks. The supplier monitors the tank level during the entire filling process to ensure that the tank is not over filled. If a problem occurs during the transfer, the supplier will stop the transfer and notify facility personnel so that the problem can be corrected.

As part of facility training, personnel are instructed as to the importance of preventing spills, proper material handling techniques to minimize the chance of a spill and control and countermeasures to be employed in the event of a spill.



Carlisle Mine
MSHA ID: 12-02349

11. Structures and Equipment to Prevent Discharges [112.7 (a)(3)(iii)]

11.1 Secondary Containment for Bulk Storage Containers

Some bulk-storage containers are located within diked areas. In each case (except where otherwise addressed in Part 31 – Corrective Measures these meet the criteria for secondary containment structures as defined by 112.7 (c). The walls and floors of these secondary containment structures are sufficiently impervious to retain those oil-products stored in included tanks for a period sufficient to allow clean-up. The volumes of the secondary containment structures are sufficient to contain the volume of the largest included tank. Where secondary containment is not within a building or otherwise covered, additional volume is provided to account for un-drained rainwater that might be present. The volumes provided in this plan are net of the displacement of other tanks included within the secondary containment structure. Specifics are in Attachment 3.

Bulk storage containers that are not within a diked area are double walled. EPA has determined that double-walled tanks can qualify as secondary containment if they are used in conjunction with other measures-particularly measures that would minimize the chance/volume of leakage through exterior piping (FR Vol. 67, No. 135, July 17, 2002). The specific "other measures" used at this facility are detailed in Attachment 3. These other measures in combination with the double walled tanks are judged to be sufficient to qualify as secondary containment.

The (3) freeze proof tanks near the train loadout and the caustic tanks and totes do not contain oil or oil-based product and therefore are not required to have secondary containment.

11.2 Oil-filled Electrical Equipment

This facility contains oil-filled electrical devices. By definition, these are not bulk-storage containers, and are classified as oil-filled operational equipment. This facility has not had any discharges from oil-filled operational equipment exceeding 1,000-gals. within the past (3) years. This facility has not had (2) or more discharges exceeding 42-gals. within any (12) month period within the last (3) years. As a result, pursuant to 112.7 (k)(1), this facility qualifies to use alternatives to general secondary containment requirements. Such alternatives will be used.

112.7 (k)(2) specifies the requirements for alternatives to secondary containment for oil-filled operating equipment. Specifically, 112.7 (2)(i) requires procedures for inspections and monitoring. These are addressed in Part 20. 112.7 (2)(ii)(A) requires an oil spill contingency plan consistent with 40 CFR 109. Part 30 herein provides details as to how this plan is consistent with 40 CFR 109. 112.7 (2)(ii)(B) requires a written commitment of the required manpower, equipment and materials as specified in the spill contingency plan. Such a written commitment is provided in Part 5.

112.7 (d) specifies that if alternatives to secondary containment are used, the plan must contain an explanation as to why such measures are not practical. With respect to this facility, secondary containment is not provided for electrical equipment because of safety concerns associated with the potential to impound water proximate to electrical devices.



Carlisle Mine
MSHA ID: 12-02349

12. Spill Response [112.7 (a)(3)(iv) and (5)]

A "spill" is any spill, discharge, release, or leak of a liquid, solid or sludge consisting of oil or other petroleum-contaminated materials. The prevention of spills is preferable to responding after a spill has occurred, and it is the responsibility of all employees to prevent spills. However, in the event that a spill was to occur, the following response and cleanup procedures will be utilized. These procedures may be modified as appropriate to the circumstances. All procedures should be utilized within the context of the overall goal—which is to prevent petroleum products from entering and damaging the environment and from harming persons. As a part of the facility training program (See Part 21), personnel are trained to recognize spills and to follow the response procedures herein.

12.1 Initial Spill Response

Part 22 specifies a particular person to be the designated person who will coordinate the implementation of this plan:

- Small spills which are completely within the facility boundary, are located on land that has already been affected, and which do not threaten to enter waters may be cleaned up by the personnel on site under the direction of appropriate supervisors. All other spills should be reported to the designated person. Any spill which reaches or threatens to reach a retention pond should be reported to the designated person. If there is any question as to whether or not a spill should be reported to the designated person, the spill should be reported.
- When a spill is to be reported to the designated person, that report should be made as soon as it is possible to do, but the initial measures needed to control the spill should not be delayed in order to make the report. The person(s) responding to the spill should first evaluate the health and safety hazards in the area before proceeding. If the hazards of the spill material are not known, review the Safety Data Sheet (SDS) for that material. Those persons should then:
 - ~ Implement appropriate safety measures as appropriate;
 - ~ Get mobile fire control equipment, if appropriate;
 - ~ Don appropriate personal protective equipment, if appropriate; and,
 - ~ Remove all ignition sources before entering the spill area, if it is safe to do so.
- If any health or safety risks are associated with the spilled material, the responders should evacuate the area immediately and establish a security zone around the spill, if needed, and control access into this security zone. Personnel not directly involved with the spill need to stay away from the spill area. Responders should take any immediate action **that does not endanger the responder or any other persons** to stop, contain or divert the spill. A list of direct countermeasures that might be used is provided below.
- Estimate the volume of material that was spilled. Time and resources should not be utilized to estimate the spill volume until they can be utilized without impeding the efforts to contain or divert the spill. Depending on the quantity and location of the spill, some spills must be reported to (1) or more regulatory agencies. The designated person will determine if the spill meets the criteria for being a reportable incident. If the spill is a reportable incident, the designated person will make the required reports. Requirements and procedures for reporting spills to regulatory agencies are addressed Part 16 and summarized in Attachment 4; it also contains the contact information for persons and agencies to whom spills may need to be reported.

Spill Prevention, Control, and Countermeasures Plan

Last Modified: June 30, 2016

Page | 11 of 57



Carlisle Mine
MSHA ID: 12-02349

12.2 *Direct Countermeasures*

Whenever it can be done without endangering the health or safety of the responders, direct countermeasures should be taken minimize the possibility of oil reaching a waterway. In the case of a large spill, or of any spill which threatens to enter a waterway, regardless of size, the implementation of countermeasures should be treated as an urgent matter.

- Small Spill:
 - ~ Prevent the spill from getting larger by plugging/closing the source of the oil.
 - ~ Make sure spill is totally contained. If necessary to contain the spill, use absorbent materials.
 - ~ Proceed with cleanup as outlined in Part 13.
- Large Spill:
 - ~ Prevent the spill from getting larger by plugging/closing the source of the oil. Close valves, turn off pumps and equipment as appropriate.
 - ~ Make sure spill is totally contained. If necessary, use absorbent materials and/ or utilize mobile equipment to create dikes and/or ditches.
 - ~ Even if it is not possible to immediately contain the spill, use absorbents, dikes and/or ditches to divert any flows away from areas where it might enter a waterway.
 - ~ Plug or cover floor drains or storm drains.
 - ~ If a spill has already contaminated a retention pond, plug or dike the outfall (unless plugging the outfall might pose a risk of over-topping the embankment). At a minimum, place an oil absorbent boom in front of the outfall.
 - ~ The measures listed here should be done in whatever order is most effective in preventing oil from reaching a waterway.
 - ~ After the spill is contained, proceed with cleanup as detailed in Part 13.



Carlisle Mine
MSHA ID: 12-02349

13. Spill Cleanup [112.7 (a)(3)(iv) and (a)(5)]

In conjunction with the countermeasures listed in Part 12 and the reporting procedures outlined in Part 16, cleanup must be initiated immediately following containment of a spill.

13.1 Cleanup Responsibility

For small spills (typically less than 25-gals.) that do not threaten to enter a waterway, facility employees may clean up the spill under the direction of their supervisor. For larger spills (typically over 25-gals.) and for any spills that are located off of, or have migrated off of, the facility site; or for any spills that have or threaten to enter waters, the designated person will determine if outside assistance is required.

13.2 Cleanup Materials and Equipment

Spill control and cleanup equipment on site includes absorbent socks, loose absorbent (sweeping compound), brooms, shovels, back-hoes, front-end loaders, dozers or other earth moving equipment. The spill cleanup materials are stored in storeroom. The Storeroom Manager will be responsible for keeping a supply of cleanup materials at the facility. At a minimum, the storeroom will maintain a supply of the following:

- (10) 3" X 4' Oil-Absorbent Socks
- (10) 3" X 8' Oil-Absorbent Socks
- (5) 8" X 10' Oil-Absorbent Socks
- Bags of dispersible oil absorbing granules

13.3 Cleanup Procedures

- Do not use water to clear away an oil spill (water will mobilize the spill and require additional cleanup efforts). Divert water from an oil spill area using earthen dikes and ditches as needed.
- Recover as much of the released oil as possible. Store recovered oil in compatible containers that are in good condition.
- Oil spill in water basin: Block off outflow (unless this poses a risk of over-topping if appropriate, this should have already been done as a countermeasure described in Part 12). Use an absorbent boom to skim the oil off the impounded water. If necessary, pump contaminated water out of basin to prevent water from discharging. In some situations, oil may be burned off the surface of water. However, burning should only be done after having obtained approval from IDEM or other appropriate agency.
- Oil spill on gravel or soil: Absorb as much of the oil as possible with absorbent material. Remove all contaminated gravel or soil down to visibly clean material. Place the excavated material in piles on top of tarps or in a dedicated dumpster for delivery to a disposal facility.
- Oil spill on solid surfaces: Collect free-standing oil and place in leak-proof containers. Clean up remaining oil with absorbent materials and then clean the area thoroughly with rags. If necessary, wet rags with a non-hazardous solvent. Place oil-soaked cleanup materials in leak-proof containers.

Spill Prevention, Control, and Countermeasures Plan

Last Modified: June 30, 2016

NEICVP1179E01

Appendix N
Page 13 of 57

Page | 13 of 57
Sunrise Coal, LLC
Carlisle, Indiana



Carlisle Mine
MSHA ID: 12-02349

14. Disposal of Recovered Material [112.7 (a)(3)(v)]

An oil spill is not considered cleaned up until all waste produced during the cleanup activities is properly disposed of. The designated person is responsible for ensuring that contaminated cleanup materials are disposed of in accordance with federal, state, and local regulations. Only approved waste disposal sites shall be used to dispose of cleanup materials. General disposal guidelines are listed below:

- Liquid oil that has been collected should be recycled, if possible, or disposed of at a regulated and licensed off-site facility.
- Ship oily soil that has been excavated to a landfill or soil treatment facility that is permitted to dispose of or treat oil-contaminated soil.
- Dispose of oil-soaked absorbent material in a landfill permitted for this type of waste.

15. Contact List [112.7 (a)(3)(vi)]

Internal spill reporting procedures are a part of the initial spill response and are discussed in Part 12. Depending on the quantity and location of the spill, some spills must be reported to (1) or more regulatory agencies. Requirements and procedures for reporting spills to regulatory agencies are addressed in Part 16. Attachment 4 contains a list of phone numbers of persons and agencies who may need to be contacted to report spills. Part 22 addresses the designated person for this facility. The contact information for the designated person is provided in Part 22 and on Attachment 4.

16. Spill Reporting [112.7(a)(4) and (5)]

Spill reporting is very important and must be done in a timely and accurate manner. Internal reporting procedures are addressed in Part 13; addressing external reporting.

Depending on the quantity and location of the spill, some spills must be reported to one or more regulatory agencies. Upon notification that a spill has occurred, the designated person will determine if the spill must be reported and, if appropriate, the designated person will report the spill. Regardless of whether or not a spill is reported, a Spill Report Form will be completed by the designated person and kept as part of this plan. Completed Spill Report Forms should be kept as part of Attachment 6. The Spill Reporting Form includes a record of whether agencies were notified of the spill and, if not, the rationale thereof. Spill Report Forms and all other pertinent records must be maintained for a period of five years and be made available for inspection upon request by the USEP A or the Indiana Department of Environmental Management (IDEM). Spill reporting requirements are summarized in Attachment 4; it also contains a list of contact information for persons and agencies to whom spills may need to be reported. In some cases, a written report to EPA may be required. The information that must be included on such a report is summarized in Attachment 5.

There are (3) agencies to whom a spill may need to be reported. These are:

- National Spill Response Center
- EPA
- Indiana Department of Environmental Management



Carlisle Mine
MSHA ID: 12-02349

16.1 National Response Center (NRC)

Spills must be reported to the NRC if, 1) the amount the material spilled is sufficient to create a sheen, film or discoloration and; 2) the spill has entered or threatens to enter water. If reporting is required, it should be done as soon as possible after the release. The person calling the NRC should be prepared to provide the information on the Spill Reporting Form (Attachment 6). NRC contact information is included as part of Attachment 4.

16.2 US EPA Region 5

Submit a written report to the EPA Region 5 Regional Administrator if the facility spills more than 1,000-gals. of oil in a single event or spills more than 42-gals. of oil in each of two spills within any 12-mo. period. The information that must be included in a report to the EPA is provided in Attachment 5. This information must be submitted within 60-days of the incident.

16.3 State Reporting Requirements

The following spills must be reported to IDEM as soon as possible but no later than within 2-hrs. of discovery. If during the course of the spill response new or updated information becomes available that significantly increases the likelihood of damages to water of the State, that information must also be reported to IDEM as soon as possible, but no later than within 2-hrs. of the time the new or updated information becomes known. Spills must be reported to IDEM if they meet any of the following criteria:

- Spills of petroleum products that damage waters so as to cause death or acute injury to animals or humans.
- Spills of petroleum products that damage waters and which are also located within 50-ft. of a private drinking well that is located beyond the facility boundary.
- Spills of petroleum products to surface waters which are of sufficient quantity so as to cause a sheen on the water.
- Spills of petroleum products to soil beyond the facility boundary which exceed 55-gals.
- Spills of petroleum products to soil within the facility boundary which exceed 1,000-gals.

16.4 A copy of the Indiana Spill Rule is included as Appendix C. IDEM contact information is included as part of Attachment 4.

16.5 In the event of an incident that requires resources beyond those available to the facility, all of the above authorities, and also local emergency response agencies, should notified immediately and be called and made aware of that situation.

17. Spill Predictions [112.7 (b)]

40 CFR 112.7 (b) requires that, where experience indicates a reasonable potential for equipment failure, this plan should include a prediction of the direction, flow rate and quantity of oil that could be discharged as a result of such equipment failure. Attachment 7 consists of such an analysis, and it also addresses the controls and countermeasures in place, and how they would likely function in the various scenarios considered.



Carlisle Mine
MSHA ID: 12-02349

18. Structures and Equipment to Prevent Discharges [112.7 (c)(1)]

See Part 11

19. Determination of Practicality [112.7 (d)]

112.7 (d) specifies that if alternatives to secondary containment are used, the plan must contain an explanation as to why such measures are not practical. With respect to this facility, alternate measures to secondary containment are proposed only for electrical devices that are classified as oil-filled operating equipment. The practicality of providing secondary containment for electrical devices at this facility is addressed in Part 11. In lieu of secondary containment, oil-filled electrical equipment will be periodically inspected (Part 20), and a Spill Contingency Plan pursuant to 40 CFR 109 will be implemented. Part 30 herein provides details as to how this plan is consistent with 40 CFR 109.

20. Inspections, Tests and Records [112.7 (e)]

Employees should visually inspect all equipment and structures appurtenant to the prevention and control of spills on a continuous basis as part of their routine duties. Personnel are instructed to do this as part of their facility training. Any problems or issues that could result in a spill, or in the inability to contain a spill, should be brought to the attention of the designated person immediately. All such issues are to be resolved as soon as practicable after discovery.

An inspection of all storage tanks and corresponding secondary containment systems are to be conducted on a monthly basis by the designated person or his or her assignee. Inspection of the loading/unloading facilities and security measures are also included. Attachment 8 contains a SPCC Inspection Checklist which indicates the items that should be addressed in each inspection. Completed inspection checklists should also be kept as part of Attachment 8. Completed inspection reports must be maintained for 3-yrs.

30 CFR 112.8 (c)(6) requires integrity testing for all bulk containers, and it specifies that this integrity testing must include both visual and mechanical testing, taking into account the size and design of the container. The preamble to 30 CFR 112 [FR Vol 67, No. 137, July 17, 2003, Page 4 7120 "Methods of Testing"] stipulates that for smaller containers in which internal erosion poses a minimal risk, which are inspected at least monthly and which are visible on all sides, visual inspection alone might suffice. Based on this guidance and in accordance with good engineering practice, Attachment 8 specifies those containers should receive mechanical integrity testing, and those containers for which visual inspections alone is considered sufficient.

Part 25 discusses drainage of diked areas and the logs that should be kept in association with that activity.

Any defects in bulk storage containers discovered as a result of inspections (or discovered for any reason) will be repaired as quickly as practicable.



Carlisle Mine
MSHA ID: 12-02349

21. Personnel Training [112.7 (f)(1) and (3)]

All employees and contractors at this facility who are directly engaged in coal mining activities are required to receive new miner training before beginning work at this facility as required by 30 CFR Part 46 and/or Part 48. Surface miners receive not less than 24-hrs. of training and underground miners receive not less than 40-hrs. of training. Since most or all of the personnel are likely to have received this training at a facility (e.g., Vincennes University) other than the Carlisle Mine, this initial new miner training would not be specifically targeted to the Carlisle Mine per se. Nevertheless, good workmanlike practices to prevent accidents of all types are addressed in this training. To the extent that these practices are also germane to spills and spill prevention, then that training is also applicable to this plan.

After initial training, all personnel engaged in mining are required to have not less than 8-hrs. of retraining every year. This annual retraining specifically addresses spill prevention and countermeasure applicable at this mine. Training records are maintained at the mine office.

Employees, contractors and visitors to this facility who are not actively engaged in coal mining are nevertheless required to receive hazard recognition training prior to entering on the active mine area. This training addresses hazards which could result in the spillage of oil. Such hazard training is good for 12-mos., after which time it must be repeated before entering on mine areas.

22. Designated Person [112.7 (f)(2)]

40 CFR 112.7 (f)(2) requires that a person be designated who is accountable for discharge prevention and who reports to management. At this facility, the designee (heretofore and hereafter, "designated person") and their contact information is as follows:

Shad Montgomery
Sunrise Coal, LLC. – State Road 58 – Carlisle, IN
Office (812) 398-2200 – Cell (812) 239-7229
SMontgomery@SunriseCoal.com



Carlisle Mine
MSHA ID: 12-02349

23. Site Security [112.7 (g)]

23.1 Access Prevention [112.7(g)(1)]

112.7 (g)(1) requires that areas be fenced in. However, 112.7 (a)(2) allows for deviations from this fencing requirement provided that an explanation is provided in the SPCC Plan. In the case of this facility, the area is too large to practicably fence in (see Attachment 2 – Facility Layout). The lack of fencing is not a security issue because this facility is normally operated 24-hrs. per day, 7-days per week, and production personnel are generally nearby at all times. During any periods (e.g., temporary shutdowns) when personnel will not be present, security personnel will be present to reduce the risk of vandalism. All visitors must check in at the Main Office prior to entering the facility and there are signs at points of egress notifying visitors of this requirement.

23.2 Valves [112.7 (g)(2)]

If a tank is equipped with a valve that permits outward flow from the tank to the ground or floor, the valve will be maintained in the closed position. Routine visual inspections will be made by operational personnel during the course of normal operations to ensure that valves are kept in the closed position. Where double walled tanks are used as a method of secondary containment, some tanks are equipped with solenoid valves to prevent the flow of product when power to the pump is turned off (See Attachment 3 for details).

23.3 Pumps [112.7 (g)(3)]

112.7 (g)(3) requires that pumps be locked when the pump is not operating. However, 112.7 (a)(2) allows for deviations from this requirement provided that an explanation is provided in the SPCC Plan. At this facility, pumps are accessed frequently such that it would not be practicable to lock and unlock the pump at frequent intervals throughout the day. However, all pumps are located where they are accessible only to authorized personnel (See Part 23).

23.4 Loading/Unloading [112.7 (g)(4)]

All loading connections on storage tanks are capped with cam-type caps or threaded plugs. These caps and plugs are removed only during filling operations and are replaced at the end of those operations.

23.5 Lighting [112.7 (g)(5)]

This facility is well lit in accordance with safety requirements pursuant to 30 CFR 70. As a result, there is sufficient lighting throughout this facility to provide adequate vision for the discovery of discharges during hours of darkness and also to assist in preventing discharges due to vandalism.



Carlisle Mine
MSHA ID: 12-02349

24. Additional Requirements [112.7 (j)]

It is believed that there are not any requirements more stringent than those addressed herein which would be applicable to this facility. Reference is made to the SMCRA (Surface Mine Control and Reclamation Act, P.L. 95-87) Permit (Indiana Division of Reclamation Permit No. U-00028), the NPDES (National Pollution Discharge Elimination System) Permits, (Clean Water Act) Section 404 Permit (US Army Corps of Engineers Permit and its associated Section 401 Water Quality Certification. Although these permits do not address spill prevention to the degree that it is addressed in this plan, they do address control and mitigation of on-site and off-site damage and other environmental concerns appurtenant to the plan. As detailed earlier in this plan, retention ponds are one of the measures employed per 112.7 (c)(1) to prevent discharges. Under the terms of the NPDES permit, the outfall from these ponds must be inspected no less than twice per month. In addition, pursuant to Indiana regulations 312 IAC 25, any large embankments associated with a retention pond must be inspected no less than once per quarter, and the inspection conducted during the last quarter of each year must be certified by a registered professional engineer familiar with embankment design and stability.

25. Drainage from Diked Areas [112.8 (b)(1), (2) and (c)(3)]

The diked secondary containment areas that are located outside, if any, are equipped with a manual valve which, when open, allows for clean rainwater accumulated within the diked area to be released and, when closed, ensures that any spillage into the diked area will be contained or they are routinely examined and any spillage and or rainwater is vacuumed or pumped out.

If so equipped the dike drainage valves should be kept in a closed position. From time to time, the valves should be opened to release accumulated water as necessary to ensure that the storage capacity inside the diked area is sufficient to contain the contents of the largest tank. However, water should be released only if it is clean. Water that is discolored or has a visible sheen should not be released but, instead, should be pumped out and taken to a qualified off-site facility. Additionally, if water has become contaminated, the source of the contamination should be identified and, if it is due to leakage from the tanks or plumbing, the faulty equipment should be repaired. If the contamination is due to spillage inside the diked area rather than to leakage, the spilled material should be cleaned up sufficiently to prevent future contamination (See Part 13 for Cleanup Procedures and Part 14 for Disposal Practices).

A record should be kept of each time water is removed or drained from diked areas (per 112.8 (c)((3)(iv)). These logs should be kept with this plan as Attachment 9.

26. Drainage from Undiked Areas [112.8 (b)(3)]

All bulk storage containers have secondary containment (unless and except as otherwise addressed by Part 31 – Corrective Measures. Oil-filled operation equipment (e.g., transformers) may not have secondary containment (See Part 11). Drainage from areas containing oil-filled electrical equipment is addressed in Attachment 7 – Spill Predictions and Analysis.



Carlisle Mine
MSHA ID: 12-02349

27. Bulk Storage Containers [112.8 (c)(1), (2), (6) and (10)]

The material and construction appurtenant to all bulk storage containers is compatible with the material stored. There are no special storage conditions such as temperature and pressure to be considered. Attachment 3 provides the material and construction details appurtenant to each bulk storage container. Part 11 and Attachment 3 detail the structures associated with each bulk storage container to prevent discharge. Inspection and testing of bulk storage containers is addressed in Part 20. As discussed in Part 20, any defects in bulk storage containers will be repaired as quickly as practicable.

28. Portable Oil Storage Containers [112.8 (c)(11)]

There are no portable oil storage containers in use by this facility. From time to time contractors may be performing work at this facility, and those contractors may utilize their own portable containers. However, such containers are not considered as part of this facility and therefore are not addressed by this plan. Subcontractors should have their own SPCC Plans when applicable.

29. Substantial Harm Certification [40 CFR Part 112, Appendix C]

This facility does not meet the substantial harm criteria outlined in 40 CFR 112 Appendix C. In accordance with that section, a certification form has been prepared and is included as Attachment 10.

30. Compliance with 40 CFR 109

This facility contains oil-filled electrical devices. By definition, these are not bulk-storage containers, and are instead classified as oil-filled operational equipment. 112.7 (k) specifies that, in lieu of secondary containment, alternate measures may be used for non-bulk containers if: 1) secondary containment is not practical and 2) the facility has a spill history meeting the requirements of 112.7 (k)(1). Part 11.2 herein contains details as to why secondary containment is not practical and why the facility meets the spill history requirements of 112.7 (k)(1). Alternate measures are therefore proposed.

112.7 (k)(2) specifies where alternate measures are proposed, facility must, among other things, have a Spill Contingency Plan consistent with 40 CFR 109. Rather than submit a separate plan, the requirements of 40 CFR 109 have been incorporated into this plan. To wit: Per 109.5 (b)(1), critical water use areas are addressed in Part 1. Per 109.5, notification procedures are addressed in Part 16, and a Contact List is maintained as part of Attachment 4. With respect to 109.5 (b)(3), it is believed the normal phone system of the facility and the cell phones maintained by each management employee is sufficient since there are no National or State Plans related specifically to this facility. Per 109.5 (b)(4), Attachment 4 contains contact information, and Part 16 discusses procedures for notifying authorities. Per 109.5 (c)(1), Part 13.2 contains an inventory of the materials and equipment that will be kept at the facility. With respect to 109.5 (c)(2), it is believed the material in Part 13.2 would be sufficient to remove the maximum amount of oil likely to be discharged. With respect to 109.5 (c)(2), this facility has arrangements whereby additional equipment could be obtained from our other mines. In the event of an emergency where the need for equipment exceeded the equipment available on site. Similar arrangements exist with vendors who supply material that might be needed in excess of that kept on site. With respect to 109.5 (d)(1), the entire management of this facility is trained (training is addressed in Part 21) and may be considered as prepared operating personnel which could constitute a response team. Per 109.5 (d)(2), this plan specifies a designated person who, in conjunction with other qualified personnel, could serve as a response coordinator. With respect to 109.5 (d)(3), the facility office is hereby designated as the "Oil Discharge Response Operations Center". With respect to 109.5 (d)(4), the level of response may include up to all operating personnel and equipment as necessary. As detailed in Part 1, it is not likely that more than (1) water resource would be threatened by any given incident, so a listing of water resource priorities is not applicable.

Spill Prevention, Control, and Countermeasures Plan

Last Modified: June 30, 2016

Page | 20 of 57



Carlisle Mine
MSHA ID: 12-02349

31. Corrective Measures

31.1 Drums and Totes in Storage Yard

As of the date of this plan, several 55-gal. drums and 275-gal. plastic totes with oil products are located at the facility. There is no secondary containment for these containers. Since the volume in each is equal to or greater than 55-gal., secondary containment is required. A dike structure is recommended and is currently being designed.

31.2 Used Oil Tanks

As of the date of this plan the used oil tanks Containers 8, 9 and 14 do not have a secondary containment system. A dike structure is recommended and is currently being designed.

31.3 Freeze Proofing Tanks by Rail Loadout, Gob Belt, Caustic and Flocculant Tanks X1-X8
There is no secondary containment for the tanks noted. The "X" Tanks do not contain oil or oil-based product and therefore are not required to have secondary containment.



Carlisle Mine
MSHA ID: 12-02349

Attachment 1

Plan Review Record

Instructions: Complete a "Plan Review Record" each time this plan is reviewed. Keep all completed record forms here.

At a minimum, this plan must be reviewed:

1. Following a spill or release in order to evaluate the adequacy of the plan and to determine if modifications to the plan to prevent such future occurrences are necessary.
2. After changes to the design, construction, operation or maintenance of this facility which could affect the potential for oil to be discharged.
3. No less often than every 5-yrs.

Name of Person Reviewing Plan _____

Date _____

Reason for Review (Example: Following spill or release (to Evaluate Adequacy of Plan), Changes to Facility that could Affect Potential for Discharge, 5-yrs. Since Last Review, Other)

Amendment Needed

☐ Yes ☐ No

Date _____

Name of Person Reviewing the Plan _____

(Printed)

(Signature)

Does Amendment Involve Technical Matters for which a PE Certification is Required?

(If Yes, complete certification below)

☐ Yes ☐ No

Professional Engineer Certification –

The Professional Engineer's Signature and Stamp Certifies that:

- He/she is familiar with the requirements of 40 CFR Part 112;
- His/her agent has visited and examined the facility;
- The plan has been prepared in accordance with good engineering practices; including consideration of applicable industry standards and with the requirements of 40 CFR Part 112;
- Procedures for required inspections and testing have been established; and,
- The plan is adequate for the facility.

(Stamp 1)

(Signature)

(Registration No.)

(State)

(Date)

Notes

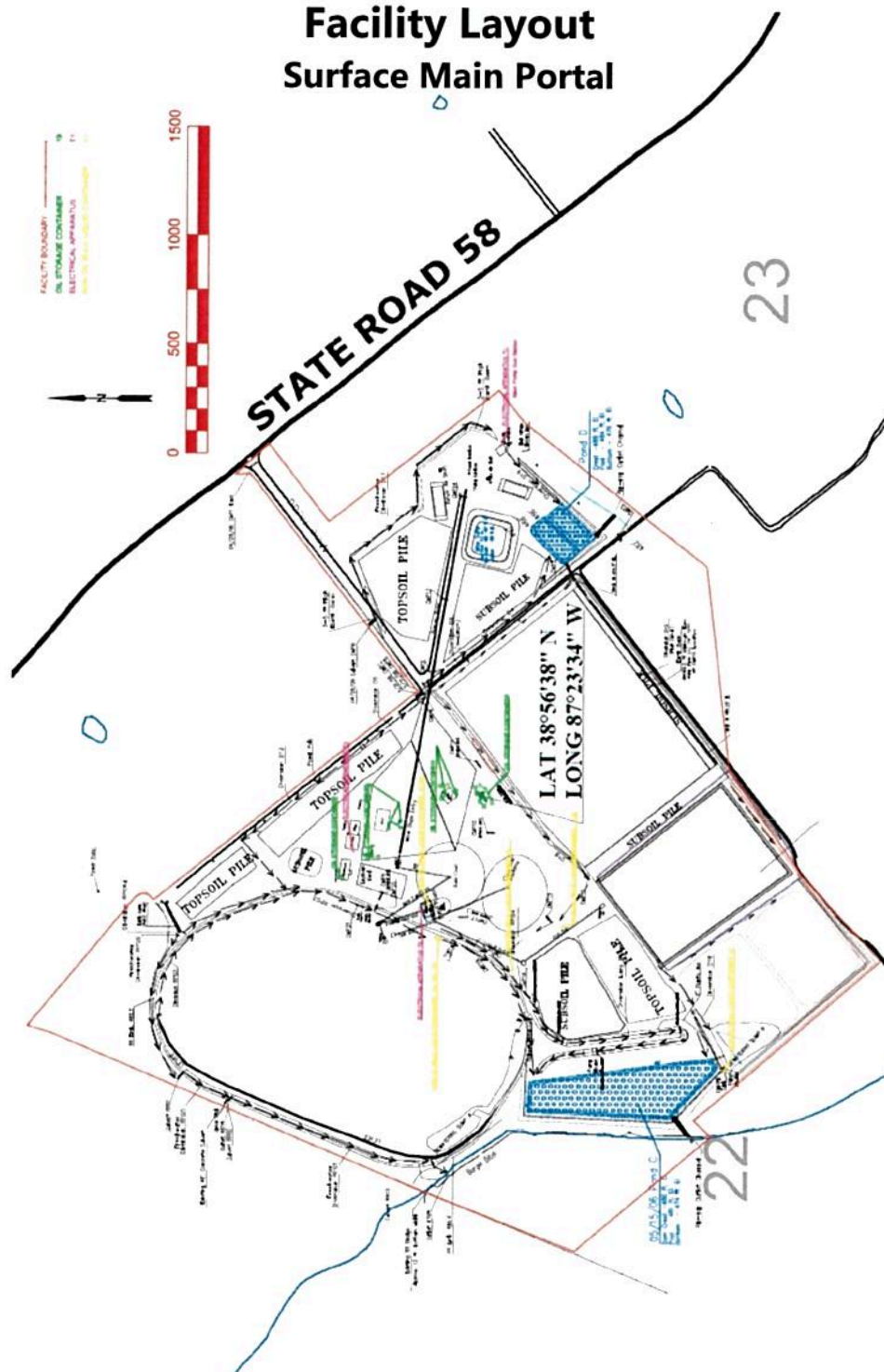


Carlisle Mine
MSHA ID: 12-02349

Attachment 2

Facility Layout

Surface Main Portal



Spill Prevention, Control, and Countermeasures Plan

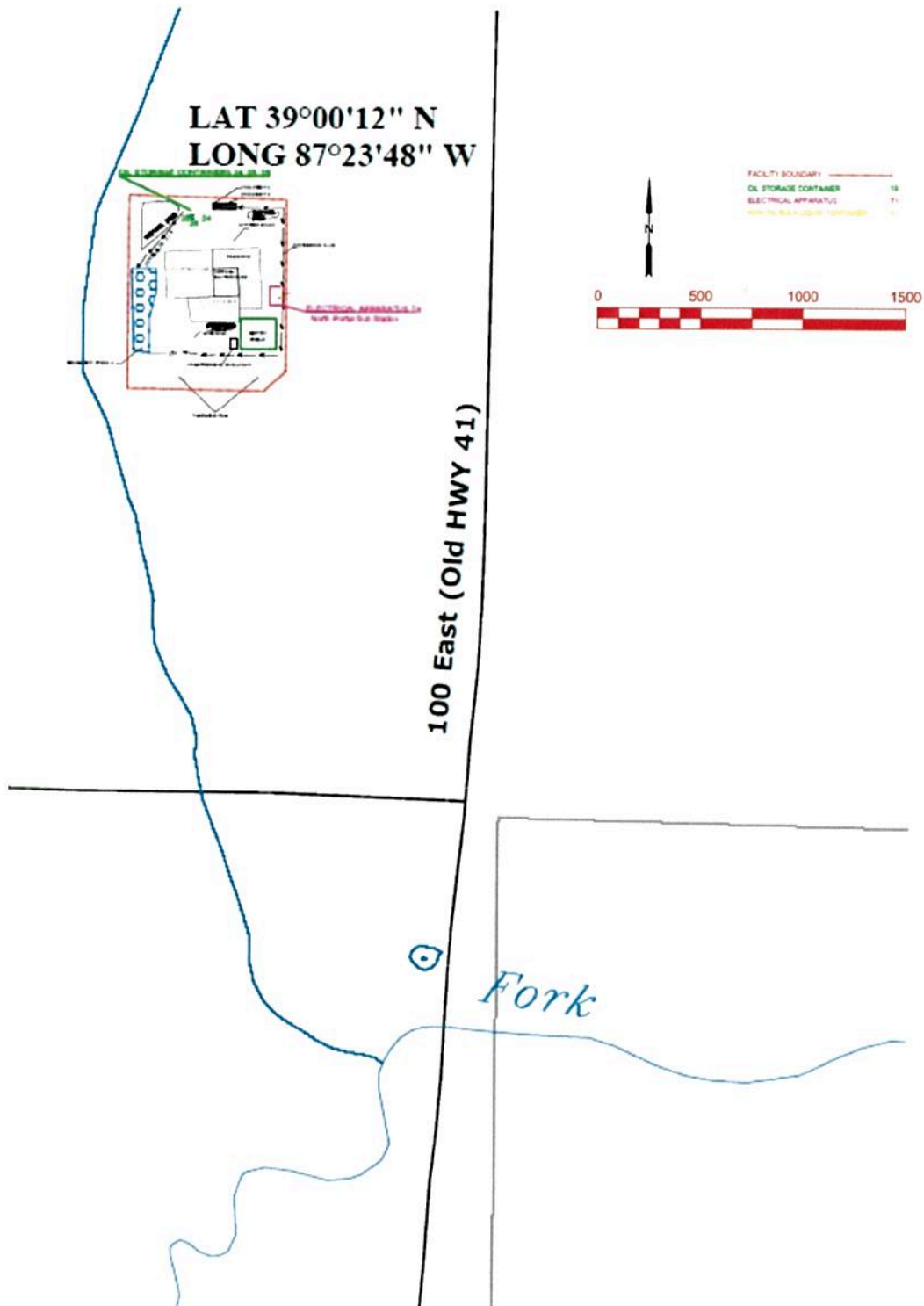
Last Modified: June 30, 2016

Page | 23 of 57



Carlisle Mine
MSHA ID: 12-02349

Surface North Portal



Spill Prevention, Control, and Countermeasures Plan

Last Modified: June 30, 2016

Page | 24 of 57



Carlisle Mine
MSHA ID: 12-02349

Attachment 3

Table of Bulk Storage Containers

Tank No.	Contents	Size (gals.)	Location	Construction	Secondary Containment
1	Hydraulic Oil	2,000	Warehouse	Steel	None, Enclosed in Building
2	Used Oil	250	Underground Shop (Backside)	Steel	Metal Dike
3	Used Oil	265	Underground Shop (Backside)	Plastic Tote	Metal Dike
4	Diesel Fuel	1,000	Underground Fuel Storage Area	Steel	Double Walled
5	Diesel Fuel	1,000	Underground Fuel Storage Area	Steel	Double Walled
6	Diesel Fuel Additive	55	Underground Fuel Storage Area	Steel Drum	Metal Dike
7	Diesel Fuel Additive	55	Underground Fuel Storage Area	Steel Drum	Metal Dike
8	Gear Oil	500	Underground Shop (Backside)	Steel	None
9	Gear Oil	500	Underground Shop (Backside)	Steel	None
10	Oil	500	Green Shop	Steel	Double Walled
11	Anti-Freeze	500	Green Shop	Steel	Double Walled
12	Hydraulic Oil	500	Green Shop	Steel	Double Walled
13	Oil	500	Green Shop	Steel	Double Walled
14	Used Oil	1,000	Green Shop	Steel	None
15	Gasoline	500	Fuel Storage Area	Steel	Double Walled
16	Diesel Fuel	4,000	Fuel Storage Area	Steel	Double Walled
17	Diesel Fuel	4,000	Fuel Storage Area	Steel	Double Walled
18	Diesel Fuel Additive	350	Fuel Storage Area	Steel, Stainless	Double Walled
19	Diesel Fuel	15,000	Fuel Storage Area	Steel	Double Walled
20	Oil	500	Fuel Storage Area	Steel	Double Walled
21	Oil	500	Fuel Storage Area	Steel	Double Walled
22	Hydraulic Oil	500	Fuel Storage Area	Steel	Double Walled
23	Anti-Freeze	500	Fuel Storage Area	Steel	Double Walled
24	Diesel Fuel	250	North Portal Fuel Storage Area	Steel	Self-Contained
25	Diesel Fuel	1,000	North Portal Fuel Storage Area	Steel	Self-Contained
26	Diesel Fuel Additive	55	North Portal Fuel Storage Area	Steel	None
T1	Electric Transformers	2,500	*Portal Substation	Steel	None
T2	Electric Transformers	200	Bath House	Steel	None
T3	Electric Transformers	950	Preparation Plant	Steel	None
T4	Electric Transformers	2,000	*North Portal	Steel	None
X1	Caustic Water Treatment	5,000	Pond C	Plastic	Non-Oil Product
X2	Caustic Water Treatment	300	Diversion Flowing to Pond C	Plastic Tote	Non-Oil Product
X3	Freeze Control for Belt	5,000	Along Gob Belt	Plastic	Non-Oil Product
X4	Freeze Control for Coal	9,000	Rail Loadout	Plastic	Non-Oil Product
X5	Freeze Control for Coal	9,000	Rail Loadout	Plastic	Non-Oil Product
X6	Freeze Control for Coal	6,000	Rail Loadout	Plastic	Non-Oil Product
X7	Flocculants for Coal Fines	5,000	Preparation Plant	Plastic	Non-Oil Product
X8	Flocculants for Coal Fines	5,000	Preparation Plant	Plastic	Non-Oil Product

*Largest Oil Filled Transformer in Area

Spill Prevention, Control, and Countermeasures Plan

Last Modified: June 30, 2016

Page | 25 of 57



Carlisle Mine
MSHA ID: 12-02349

Attachment 4

Spill Reporting Requirements and Contact Information

Name and contact information of designated person who will make reports to regulatory agencies when appropriate:

Shad Montgomery
Sunrise Coal, LLC. – State Road 58 – Carlisle, IN
Office (812) 398-2200 – Cell (812) 239-7229
SMontgomery@SunriseCoal.com

Agency	Report Spill If	To Report Spill
National Response Center	<ol style="list-style-type: none"> The amount spilled is sufficient to create a sheen, film or discoloration; and, The spill has entered or threatens to enter waters. 	Call 1-800-424-8802
US EPA	<ol style="list-style-type: none"> The amount spilled in a single event exceeds 1,000-gals. or There have been (2) spills of 42-gals. or more within any 12-mo. Period. 	Send written report to US EPA Region 5 Oil Planning and Response Section 77 West Jackson Blvd. Mail Code: SE-5J Chicago, IL 60604-3507
Indiana Department of Environmental Management	<ol style="list-style-type: none"> Spill has damaged waters; and, Spill has resulted in injury or death to animals or humans. or <ol style="list-style-type: none"> Spill has damaged waters; and, Spill is within 50-ft. of a drinking water well; and, Spill is beyond facility boundary. or <ol style="list-style-type: none"> The amount spilled is sufficient to create a sheen, film or discoloration; and, The spill has entered or threatens to enter waters. or <ol style="list-style-type: none"> Spill is to soil; and, Spill is beyond facility boundary; and, Amount exceeds 55-gals. or <ol style="list-style-type: none"> Spill is to soil; and, Spill is within facility boundary; and, Amount exceeds 1,000-gals. 	If in Indiana Call 1-233-317-7745 or If outside Indiana Call 1-888-233-7745

Spill Prevention, Control, and Countermeasures Plan

Last Modified: June 30, 2016

Page | 26 of 57



Carlisle Mine
MSHA ID: 12-02349

Attachment 5

Required Content for EPA Reports

In the event that a written report of a spill to EPA is required, the following is a list of items that must be included:

- Name of the facility;
- Name(s) of the owner or operator of the facility;
- Location of the facility;
- Maximum storage or handling capacity of the facility and normal daily throughput;
- Corrective actions and/or countermeasures taken, including an adequate description of equipment repairs and/or replacements;
- Description of the facility, including maps, flow diagrams, and topographical maps, as necessary to adequately describe the facility;
- Cause(s) of the spill, including a failure analysis of the system subsystem in which the failure occurred;
- Additional preventive measures taken or contemplated to minimize the possibility of reoccurrence; and,
- Other information as the Regional Administrator may reasonably require pertinent to the plan or spill event.



Carlisle Mine
MSHA ID: 12-02349

Attachment 6

Spill Reporting Form

Instructions: The designated person should complete a "Spill Report Form" each time a spill is reported. Keep all completed forms here.

Facility Information

Name of Facility _____ Operator of Facility _____
Location of Facility _____
Maximum Storage Capacity _____ Normal Daily Throughput _____

Spill Information

Date of Spill _____ Time of Spill _____ Duration of Incident (hrs.) _____
Person Completing this Form _____ Title _____
Person Reporting Spill _____
Material Spilled _____
Source of Spill _____
Quantity Spilled (gals.) _____ Amount Recovered (gals.) _____
Location of Spill _____
Spill to Land, Water or Both _____
Cause of Spill _____
Estimated Amount Released Off-Site (if any) _____ Name of Water Body Receiving Spill (if any) _____
Actions Taken to Contain Spill _____
Harmful Effects Due to Spill (if any) _____

Spill Reporting Information

Person Initially Reporting Spill _____
Agencies Contacted (if any) _____
Rationale for Not Reporting (if applicable) _____

Spill Cleanup and Disposal Information

Cleanup Actions Taken or to Be Taken _____
Method of Disposal of Cleanup Material _____

Name of Person Completing this Form

(Printed) (Title) (Signature) (Date)

Spill Prevention, Control, and Countermeasures Plan

Last Modified: June 30, 2016

NEICVP1179E01

Appendix N
Page 28 of 57

Page | 28 of 57
Sunrise Coal, LLC
Carlisle, Indiana



Carlisle Mine
MSHA ID: 12-02349

Attachment 7

Spill Predictions: Volumes, Rates, Directions and Controls

40 CFR 112.7 (b) requires that, where experience indicates a reasonable potential for equipment failure, this plan should include a prediction of the direction, flow rate and quantity of oil that could be discharged as a result of such equipment failure. This section constitutes such an analysis, Controls and Countermeasures are also discussed.

Bulk Containers 1

Direction of Flow – Any spill should be contained within the confines of the warehouse by use of oil absorbing materials. Flow outside of the warehouse, if any, would be overland across the graveled yard. From there flow would be via a Drainage Ditch to Sediment Pond C. From there flow would be thru a Burger Ditch then to Marsh Creek, then to the Wabash River.

Flow Rate and Quantity – The container is 2,000-gals. The rate of flow within the Warehouse would, of course, depend on size of breach, but if flow was sufficient to exit the building, then the rate of flow would be constrained by the rock and soil and would probably not exceed a few gallons per minute (gpm). The rate of flow would decrease with the ability of soil/rock to absorb product before entering the ditch. Once in a ditch, the rate of flow would depend on whether or not the ditch was flowing. In dry weather, when ditch was not flowing, the rate of flow of oil would decrease with the length of the ditch, and oil would probably not reach Pond C. If the ditch was flowing, the ditch would probably not act as a constraint to oil flow. Once in the pond, oil would disperse across surface, so that oil flow out of the pond would likely be a sheen. Whether or not oil would be discharged from the pond would depend on whether or not the pond was flowing. This Pond is equipped with a pump to prevent flow unless water meets the requirements of the NPDES permit. Pond C water can be pumped down relatively quickly to a static thickener which would serve to separate the oil from the water and prevent a discharge.

Controls and Countermeasures – Controls include top mounted pipes, drip pans for nozzles, sorbent materials on shop floor, rock and soil in yard, sorbent materials placed in yard, sorbent materials placed in ditch, pumping down Pond C, pumping water to the static thickener for water/oil separation, sorbent materials in outlet of Pond C, sorbent materials in receiving waters.



Carlisle Mine
MSHA ID: 12-02349

Bulk Containers 2, 3, 4, 5, 6, 7, 8, 9

Direction of Flow – Flow outside of secondary containment, if any, would proceed across the lot. From there flow would be overland across the graveled yard. From there flow would be via a Drainage Ditch to Sediment Pond C. From there flow would be thru a Burger Ditch then to Marsh Creek, then to the Wabash River.

Flow Rate and Quantity – The largest quantity is 1,000-gals. The rate of flow, of course, would depend on the size of the breach, but flow would probably not exceed a few gpm. The rate of flow would decrease with the ability of soil/rock to absorb product before entering the ditch. Once in a ditch, the rate of flow would depend on whether or not the ditch was flowing. In dry weather, when ditch was not flowing, the rate of flow of oil flow would decrease with the length of the ditch, and oil would probably not reach Pond C. If the ditch was flowing, the ditch would probably not act as a constraint to oil flow. Once in the pond, oil would disperse across surface, so that oil flow out of the pond would likely be a sheen. Whether or not oil would be discharged from the pond would depend on whether or not the pond was flowing. This Pond is equipped with a pump to prevent flow unless water meets the requirements of the NPDES permit. Pond C water can be pumped down relatively quickly to a static thickener which would serve to separate the oil from the water and prevent a discharge.

Controls and Countermeasures – Controls would include, in successive order: secondary containment, rock and soil in yard, sorbent materials placed in yard, sorbent materials placed in ditch, pumping down Pond C, pumping water to the static thickener for water/oil separation, sorbent materials in outlet of Pond C, sorbent materials in receiving waters.

Bulk Containers 10, 11, 12, 13, 14

Direction of Flow – Any spill should be contained within the confines of the Green Shop for Containers 10, 11, 12, 13 by use of oil absorbing materials. Flow outside of the Green Shop, and Container 14, would be overland across the graveled yard. From there flow would be via a Drainage Ditch to Sediment Pond C. From there flow would be thru a Burger Ditch then to Marsh Creek, then to the Wabash River.

Flow Rate and Quantity – The largest quantity is 1,000-gals. The rate of flow within the Green Shop would, of course, depend on size of breach, but if flow was sufficient to exit the building, then the rate of flow would be constrained by the rock and soil and would probably not exceed a few gallons per minute (gpm). The rate of flow would decrease with the ability of soil/rock to absorb product before entering the ditch. Once in a ditch, the rate of flow would depend on whether or not the ditch was flowing. In dry weather, when ditch was not flowing, the rate of flow of oil flow would decrease with the length of the ditch, and oil would probably not reach Pond C. If the ditch was flowing, the ditch would probably not act as a constraint to oil flow. Once in the pond, oil would disperse across surface, so that oil flow out of the pond would likely be a sheen. Whether or not oil would be discharged from the pond would depend on whether or not the pond was flowing. This Pond is equipped with a pump to prevent flow unless water meets the requirements of the NPDES permit. Pond C water can be pumped down relatively quickly to a static thickener which would serve to separate the oil from the water and prevent a discharge.

Controls and Countermeasures – Controls include top mounted pipes, drip pans for nozzles, sorbent materials on shop floor, rock and soil in yard, sorbent materials placed in yard, sorbent materials placed in ditch, pumping down Pond C, pumping water to the static thickener for water/oil separation, sorbent materials in outlet of Pond C, sorbent materials in receiving waters.

Spill Prevention, Control, and Countermeasures Plan

Last Modified: June 30, 2016

Page | 30 of 57



Carlisle Mine
MSHA ID: 12-02349

Bulk Container 15-23

Direction of Flow – Flow outside of secondary containment, if any, would proceed across the lot. From there flow would be overland across the graveled yard. From there flow would be via a Drainage Ditch to Sediment Pond C. From there flow would be thru a Burger Ditch then to Marsh Creek, then to the Wabash River.

Flow Rate and Quantity – The largest quantity is 15,000-gals. The rate of flow, of course, would depend on the size of the breach and the tank affected. Worst case would be a major breach to the 15,000-gal. diesel tank. Flow could be significant in excess of 100-gpm in the extremely unlikely event of a catastrophic failure of the double walled tank. Coal from the neighboring coal yard would be quickly dumped into the spill and would be used to dam and absorb much of the liquid. The rate of flow would decrease with the ability of soil/rock to absorb product before entering the ditch. Once in a ditch, the rate of flow would depend on whether or not the ditch was flowing. Additional coal would be dumped into the ditch to impede the flow. In dry weather, when ditch was not flowing, the rate of flow of oil flow would decrease with the length of the ditch, and oil would probably not reach Pond C. If the ditch was flowing, the ditch would probably not act as a constraint to oil flow. Once in the pond, oil would disperse across surface, so that oil flow out of the pond would likely be a sheen. Whether or not oil would be discharged from the pond would depend on whether or not the pond was flowing. This Pond is equipped with a pump to prevent flow unless water meets the requirements of the NPDES permit. Pond C water can be pumped down relatively quickly to a static thickener which would serve to separate the oil from the water and prevent a discharge.

Controls and Countermeasures – Controls would include, in successive order: secondary containment, for large quantities coal, rock and soil in yard, sorbent materials placed in yard, sorbent materials placed in ditch, pumping down Pond C, pumping water to the static thickener for water/oil separation, sorbent materials in outlet of Pond C, sorbent materials in receiving waters.

Bulk Containers 24, 25, 26

Direction of Flow – Flow outside of secondary containment, if any, would proceed overland across the graveled yard. From there flow would be via a Drainage Ditch to Sediment Pond 2. Then to a small ditch for approximately 0.8 miles, then via the Middle Fork of Busseron Creek approximately 1.0 miles to Busseron Creek.

Flow Rate and Quantity – The largest quantity is 1,000-gals. The rate of flow, of course, would depend on the size of the breach, but flow would probably not exceed a few gpm. The rate of flow would decrease with the ability of soil/rock to absorb product before entering the ditch. Once in a ditch, the rate of flow would depend on whether or not the ditch was flowing. In dry weather, when ditch was not flowing, the rate of flow of oil flow would decrease with the length of the ditch, and oil would probably not reach Pond 2. If the ditch was flowing, the ditch would probably not act as a constraint to oil flow. Once in the pond, oil would disperse across surface, so that oil flow out of the pond would likely be a sheen. Whether or not oil would be discharged from the pond would depend on whether or not the pond was flowing.

Controls and Countermeasures – Controls would include, in successive order: secondary containment, rock and soil in yard, sorbent materials placed in yard, sorbent materials placed in ditch, sorbent materials in outlet of Pond 2, sorbent materials in receiving waters.

Spill Prevention, Control, and Countermeasures Plan

Last Modified: June 30, 2016

Page | 31 of 57



Carlisle Mine
MSHA ID: 12-02349

Electric Transformers T1

Is the primary Bank of Transformers for the mine. Any would flow overland to the drainage ditch and then on to Pond D to an unnamed tributary of Marsh Creek then to Marsh Creek, then to the Wabash River.

Controls and Countermeasures – Transformer T1 consists of major transformers and other electrical apparatus. As such it is installed on a significant pad consisting of crushed limestone. The majority of any spill would remain within the confines of the pad. Controls would include, in successive order: rock and soil in the pad, sorbent materials placed around pad, sorbent materials placed in ditch, sorbent materials in outlet of Pond D, sorbent materials in receiving waters.

Electric Transformers T2 and T3

Flow Rate and Quantity – The largest quantity is less than 1000-gals. The rate of flow, of course, would depend on the size of the breach, but flow would probably not exceed a few gpm. The rate of flow would decrease with the ability of soil/rock to absorb product before entering the ditch. Once in a ditch, the rate of flow would depend on whether or not the ditch was flowing. In dry weather, when the ditch was not flowing, the rate of flow of oil would decrease with the length of the ditch, and oil would probably not reach Pond C. If the ditch was flowing, the ditch would probably not act as a constraint to oil flow. Once in the pond, oil would disperse across surface, so that oil flow out of the pond would likely be a sheen. Whether or not oil would be discharged from the pond would depend on whether or not the pond was flowing. This Pond is equipped with a pump to prevent flow unless water meets the requirements of the NPDES permit. Pond C water can be pumped down relatively quickly to a static thickener which would serve to separate the oil from the water and prevent a discharge.

Controls and Countermeasures – Controls would include, in successive order: secondary containment, rock and soil in yard, sorbent materials placed in yard, sorbent materials placed in ditch, pumping down Pond C, pumping water to the static thickener for water/oil separation, sorbent materials in outlet of Pond C, sorbent materials in receiving waters.

Electric Transformers T 4

Is the primary Bank of Transformers at the North Portal of the mine. Any oil would flow overland to a drainage ditch and then on to Pond 2. Then to a small ditch for approximately 0.8 miles, then via the Middle Fork of Busseron Creek approximately 1.0 miles to Busseron Creek.

Controls and Countermeasures – Transformer T4 consists of major transformers and other electrical apparatus. As such it is installed on a significant pad consisting of crushed limestone. The majority of any spill would remain within the confines of the pad. Controls would include, in successive order: rock and soil in the pad, sorbent materials placed around pad, sorbent materials placed in ditch, sorbent materials in outlet of Pond D, sorbent materials in receiving waters.

Transportation Spills

Obviously the analysis of a spill appurtenant to the transportation of oil based liquids would depend on the location of that spill in addition to the quantity and flow rate, so that individual analysis is not possible here. In general, however, most, but not all, spills that occurred on roads and rails within the facility would report via facility ditching to a sediment pond.



Carlisle Mine
MSHA ID: 12-02349

Attachment 8

SPCC Inspection Checklist

Instructions: Complete the "Inspection Checklist" each month after having conducted a visual inspection of all containers and containment systems listed, and after having conducted mechanical testing on the tanks where so indicated. Keep all completed forms here.

Date of Inspection

General Structural Integrity – Do seams appear competent? Do supports and foundations appear to be in good condition?						
Plumbing – Do valves, piping and hoses appear to be competent and free from leaks?						
Secondary Containment Dikes – Is interior free from accumulated oil? Are floors and walls free from structural cracks? Are drainage valves functional and in closed position?						
Type of Mechanical Tank Test						
Result of Mechanical Tank Test						
No.	Contents	Size (gals.)				
1	Hydraulic Oil	2,000				
2	Used Oil	250				
3	Used Oil	265				
4	Diesel Fuel	1,000				
5	Diesel Fuel	1,000				
6	Diesel Fuel Additive	55				
7	Diesel Fuel Additive	55				
8	Gear Oil	500				
9	Gear Oil	500				
10	Oil	500				
11	Anti-Freeze	500				
12	Hydraulic Oil	500				
13	Oil	500				
14	Used Oil	1,000				
15	Gasoline	500				
16	Diesel Fuel	4,000				
17	Diesel Fuel	4,000				
18	Diesel Fuel Additive	350				
19	Diesel Fuel	15,000				
20	Oil	500				
21	Oil	500				
22	Hydraulic Oil	500				
23	Anti-Freeze	500				
24	Diesel Fuel	250				
25	Diesel Fuel	1,000				
26	Diesel Fuel Additive	55				
T1	Electric Transformers	2,500				
T2	Electric Transformers	200				
T3	Electric Transformers	950				
T4	Electric Transformers	2,000				

Notes

Adequacy of Security Measures?

Adequate Supplies in Warehouse?

Name of Person Completing Inspection

(Printed)

(Signature)

Spill Prevention, Control, and Countermeasures Plan

Last Modified: June 30, 2016

Page | 33 of 57



Carlisle Mine
MSHA ID: 12-02349

Attachment 9

Dike Drainage Record

Instructions: Complete the "Dike Drainage Record" each time dikes are checked or drained. Keep all completed forms here.

Tank No.	Tank Description	Tank Size (gals.)	Water								Was Source of Contamination Fixed or Clean		Valve Open or Closed	
			Removed from Dike		Drained or Pumped			Clean		If Not Clean, Source of Contamination	F	C	O	C
			Y	N	D	P	Where	Y	N					

Notes

Name of Person Completing this Form

(Printed)

(Title)

(Signature)

(Date)



Carlisle Mine
MSHA ID: 12-02349

Attachment 10

Substantial Harm Certification

Certification Re. Applicability of the Substantial Harm Criteria		Yes	No
1.	Does the facility transfer oil over water to or from vessels and does the facility have a total oil storage capacity greater than or equal to 42,000-gals.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2.	Does the facility have a total oil storage capacity greater than or equal to 1 million gallons and does the facility lack secondary containment that is sufficiently large to contain the capacity of the largest aboveground oil storage tank plus sufficient freeboard to allow for precipitation within any aboveground oil storage tank area?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3.	Does the facility have a total oil storage capacity greater than or equal to 1 million gallons and is the facility located at a distance such that a discharge from the facility could cause injury to fish and wildlife and sensitive environments?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4.	Does the facility have a total oil storage capacity greater than or equal to 1 million gallons and is the facility located at a distance such that a discharge from the facility would shut down a public drinking water intake?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5.	Does the facility have a total oil storage capacity greater than or equal to 1 million gallons and has the facility experienced a reportable oil discharge in an amount greater than or equal to 10,000-gals. within the last 5-yr?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Name of Person Completing this Form			

Tommy L. Sutton (Printed) *Engineering Manager* (Title) *Tommy L. Sutton* (Signature) *6/30/16* (Date)

Certification

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document, and that based on my inquiry of those individuals responsible for obtaining this information, I believe that the submitted information is true, accurate, and complete.



Carlisle Mine
MSHA ID: 12-02349

Appendix A

Title 40: Protection of Environment

Part 112 – Oil Pollution Prevention

40 CFR 112 (SPCC Rules)

Subpart A—Applicability, Definitions, and General Requirements for All Facilities and All Types of Oils; *Source: 67 FR 47140, July 17, 2002, unless otherwise noted.*

§112.1 General applicability.

- (a)(1) This part establishes procedures, methods, equipment, and other requirements to prevent the discharge of oil from non-transportation-related onshore and offshore facilities into or upon the navigable waters of the United States or adjoining shorelines, or into or upon the waters of the contiguous zone, or in connection with activities under the Outer Continental Shelf Lands Act or the Deepwater Port Act of 1974, or that may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Magnuson Fishery Conservation and Management Act).
- (2) As used in this part, words in the singular also include the plural and words in the masculine gender also include the feminine and vice versa, as the case may require.
- (b) Except as provided in paragraph (d) of this section, this part applies to any owner or operator of a non-transportation-related onshore or offshore facility engaged in drilling, producing, gathering, storing, processing, refining, transferring, distributing, using, or consuming oil and oil products, which due to its location, could reasonably be expected to discharge oil in quantities that may be harmful, as described in part 110 of this chapter, into or upon the navigable waters of the United States or adjoining shorelines, or into or upon the waters of the contiguous zone, or in connection with activities under the Outer Continental Shelf Lands Act or the Deepwater Port Act of 1974, or that may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Magnuson Fishery Conservation and Management Act) that has oil in:
 - (1) Any aboveground container;
 - (2) Any completely buried tank as defined in §112.2;
 - (3) Any container that is used for standby storage, for seasonal storage, or for temporary storage, or not otherwise "permanently closed" as defined in §112.2;
 - (4) Any "bunkered tank" or "partially buried tank" as defined in §112.2, or any container in a vault, each of which is considered an aboveground storage container for purposes of this part.
- (c) As provided in section 313 of the Clean Water Act (CWA), departments, agencies, and instrumentalities of the Federal government are subject to this part to the same extent as any person.
- (d) Except as provided in paragraph (f) of this section, this part does not apply to:
 - (1) The owner or operator of any facility, equipment, or operation that is not subject to the jurisdiction of the Environmental Protection Agency (EPA) under section 311(j)(1)(C) of the CWA, as follows:
 - (i) Any onshore or offshore facility, that due to its location, could not reasonably be expected to have a discharge as described in paragraph (b) of this section. This determination must be based solely upon consideration of the geographical and location aspects of the facility (such as proximity to navigable waters or adjoining shorelines, land contour, drainage, etc.) and must exclude consideration of manmade features such as dikes, equipment or other structures, which may serve to restrain, hinder, contain, or otherwise prevent a discharge as described in paragraph (b) of this section.
 - (ii) Any equipment, or operation of a vessel or transportation-related onshore or offshore facility which is subject to the authority and control of the U.S. Department of Transportation, as defined in the Memorandum of Understanding between the Secretary of Transportation and the Administrator of EPA, dated November 24, 1971 (appendix A of this part).
 - (iii) Any equipment, or operation of a vessel or onshore or offshore facility which is subject to the authority and control of the U.S. Department of Transportation or the U.S. Department of the Interior, as defined in the Memorandum of Understanding between the Secretary of Transportation, the Secretary of the Interior, and the Administrator of EPA, dated November 8, 1993 (appendix B of this part).
 - (2) Any facility which, although otherwise subject to the jurisdiction of EPA, meets both of the following requirements:
 - (i) The completely buried storage capacity of the facility is 42,000 U.S. gallons or less of oil. For purposes of this exemption, the completely buried storage capacity of a facility excludes the capacity of a completely buried tank, as defined in §112.2, and connected underground piping, underground ancillary equipment, and containment systems, that is currently subject to all of the technical requirements of part 280 of this chapter or all of the technical requirements of a State program approved under part 281 of this chapter, or the capacity of any underground oil storage tanks deferred under 40 CFR part 280 that supply emergency diesel generators at a nuclear power generation facility licensed by the Nuclear Regulatory Commission and subject to any Nuclear Regulatory Commission provision regarding design and quality criteria, including, but not limited to, 10 CFR part 50. The completely buried storage capacity of a facility also excludes the capacity of a container that is "permanently closed," as defined in §112.2 and the capacity of intra-facility gathering lines subject to the regulatory requirements of 49 CFR part 192 or 195.
 - (ii) The aggregate aboveground storage capacity of the facility is 1,320 U.S. gallons or less of oil. For the purposes of this exemption, only containers with a capacity of 55 U.S. gallons or greater are counted. The aggregate aboveground storage capacity of a facility excludes:
 - (A) The capacity of a container that is "permanently closed" as defined in §112.2;
 - (B) The capacity of a "motive power container" as defined in §112.2;
 - (C) The capacity of hot-mix asphalt or any hot-mix asphalt container;
 - (D) The capacity of a container for heating oil used solely at a single-family residence;
 - (E) The capacity of pesticide application equipment and related mix containers.
 - (F) The capacity of any milk and milk product container and associated piping and appurtenances.

Spill Prevention, Control, and Countermeasures Plan

Last Modified: June 30, 2016

Page | 36 of 57



Carlisle Mine
MSHA ID: 12-02349

- (3) Any offshore oil drilling, production, or workover facility that is subject to the notices and regulations of the Minerals Management Service, as specified in the Memorandum of Understanding between the Secretary of Transportation, the Secretary of the Interior, and the Administrator of EPA, dated November 8, 1993 (appendix B of this part).
- (4) Any completely buried storage tank, as defined in §112.2, and connected underground piping, underground ancillary equipment, and containment systems, at any facility, that is subject to all of the technical requirements of part 280 of this chapter or a State program approved under part 281 of this chapter, or any underground oil storage tanks including below-grade vaulted tanks, deferred under 40 CFR part 280, as originally promulgated, that supply emergency diesel generators at a nuclear power generation facility licensed by the Nuclear Regulatory Commission, provided that such a tank is subject to any Nuclear Regulatory Commission provision regarding design and quality criteria, including, but not limited to, 10 CFR part 50. Such emergency generator tanks must be marked on the facility diagram as provided in §112.7(a)(3), if the facility is otherwise subject to this part.
- (5) Any container with a storage capacity of less than 55 gallons of oil.
- (6) Any facility or part thereof used exclusively for wastewater treatment and not used to satisfy any requirement of this part. The production, recovery, or recycling of oil is not wastewater treatment for purposes of this paragraph.
- (7) Any "motive power container," as defined in §112.2. The transfer of fuel or other oil into a motive power container at an otherwise regulated facility is not eligible for this exemption.
- (8) Hot-mix asphalt, or any hot-mix asphalt container.
- (9) Any container for heating oil used solely at a single-family residence.
- (10) Any pesticide application equipment or related mix containers.
- (11) Intra-facility gathering lines subject to the regulatory requirements of 49 CFR part 192 or 195, except that such a line's location must be identified and marked as "exempt" on the facility diagram as provided in §112.7(a)(3), if the facility is otherwise subject to this part.
- (12) Any milk and milk product container and associated piping and appurtenances.
- (e) This part establishes requirements for the preparation and implementation of Spill Prevention, Control, and Countermeasure (SPCC) Plans. SPCC Plans are designed to complement existing laws, regulations, rules, standards, policies, and procedures pertaining to safety standards, fire prevention, and pollution prevention rules. The purpose of an SPCC Plan is to form a comprehensive Federal/State spill prevention program that minimizes the potential for discharges. The SPCC Plan must address all relevant spill prevention, control, and countermeasures necessary at the specific facility. Compliance with this part does not in any way relieve the owner or operator of an onshore or an offshore facility from compliance with other Federal, State, or local laws.
- (f) Notwithstanding paragraph (d) of this section, the Regional Administrator may require that the owner or operator of any facility subject to the jurisdiction of EPA under section 311(j) of the CWA prepare and implement an SPCC Plan, or any applicable part, to carry out the purposes of the CWA.
 - (1) Following a preliminary determination, the Regional Administrator must provide a written notice to the owner or operator stating the reasons why he must prepare an SPCC Plan, or applicable part. The Regional Administrator must send such notice to the owner or operator by certified mail or by personal delivery. If the owner or operator is a corporation, the Regional Administrator must also mail a copy of such notice to the registered agent, if any and if known, of the corporation in the State where the facility is located.
 - (2) Within 30 days of receipt of such written notice, the owner or operator may provide information and data and may consult with the Agency about the need to prepare an SPCC Plan, or applicable part.
 - (3) Within 30 days following the time under paragraph (b)(2) of this section within which the owner or operator may provide information and data and consult with the Agency about the need to prepare an SPCC Plan, or applicable part, the Regional Administrator must make a final determination regarding whether the owner or operator is required to prepare and implement an SPCC Plan, or applicable part. The Regional Administrator must send the final determination to the owner or operator by certified mail or by personal delivery. If the owner or operator is a corporation, the Regional Administrator must also mail a copy of the final determination to the registered agent, if any and if known, of the corporation in the State where the facility is located.
 - (4) If the Regional Administrator makes a final determination that an SPCC Plan, or applicable part, is necessary, the owner or operator must prepare the Plan, or applicable part, within six months of that final determination and implement the Plan, or applicable part, as soon as possible, but not later than one year after the Regional Administrator has made a final determination.
 - (5) The owner or operator may appeal a final determination made by the Regional Administrator requiring preparation and implementation of an SPCC Plan, or applicable part, under this paragraph. The owner or operator must make the appeal to the Administrator of EPA within 30 days of receipt of the final determination under paragraph (b)(3) of this section from the Regional Administrator requiring preparation and/or implementation of an SPCC Plan, or applicable part. The owner or operator must send a complete copy of the appeal to the Regional Administrator at the time he makes the appeal to the Administrator. The appeal must contain a clear and concise statement of the issues and points of fact in the case. In the appeal, the owner or operator may also provide additional information. The additional information may be from any person. The Administrator may request additional information from the owner or operator. The Administrator must render a decision within 60 days of receiving the appeal or additional information submitted by the owner or operator and must serve the owner or operator with the decision made in the appeal in the manner described in paragraph (f)(1) of this section.

[67 FR 47140, July 17, 2002, as amended at 71 FR 77290, Dec. 26, 2006; 73 FR 74300, Dec. 5, 2008; 74 FR 58809, Nov. 13, 2009; 76 FR 21660, Apr. 18, 2011]

Spill Prevention, Control, and Countermeasures Plan

Last Modified: June 30, 2016

Page | 37 of 57



Carlisle Mine
MSHA ID: 12-02349

§112.2 Definitions.

For the purposes of this part:

- *Adverse weather* means weather conditions that make it difficult for response equipment and personnel to clean up or remove spilled oil, and that must be considered when identifying response systems and equipment in a response plan for the applicable operating environment. Factors to consider include significant wave height as specified in appendix E to this part (as appropriate), ice conditions, temperatures, weather-related visibility, and currents within the area in which the systems or equipment is intended to function.
- *Alteration* means any work on a container involving cutting, burning, welding, or heating operations that changes the physical dimensions or configuration of the container.
- *Animal fat* means a non-petroleum oil, fat, or grease of animal, fish, or marine mammal origin.
- *Breakout tank* means a container used to relieve surges in an oil pipeline system or to receive and store oil transported by a pipeline for reinjection and continued transportation by pipeline.
- *Bulk storage container* means any container used to store oil. These containers are used for purposes including, but not limited to, the storage of oil prior to use, while being used, or prior to further distribution in commerce. Oil-filled electrical, operating, or manufacturing equipment is not a bulk storage container.
- *Bunkered tank* means a container constructed or placed in the ground by cutting the earth and re-covering the container in a manner that breaks the surrounding natural grade, or that lies above grade, and is covered with earth, sand, gravel, asphalt, or other material. A bunkered tank is considered an aboveground storage container for purposes of this part.
- *Completely buried tank* means any container completely below grade and covered with earth, sand, gravel, asphalt, or other material. Containers in vaults, bunkered tanks, or partially buried tanks are considered aboveground storage containers for purposes of this part.
- *Complex* means a facility possessing a combination of transportation-related and non-transportation-related components that is subject to the jurisdiction of more than one Federal agency under section 311(j) of the CWA.
- *Contiguous zone* means the zone established by the United States under Article 24 of the Convention of the Territorial Sea and Contiguous Zone, that is contiguous to the territorial sea and that extends nine miles seaward from the outer limit of the territorial area.
- *Contract or other approved means* means:
 - (1) A written contractual agreement with an oil spill removal organization that identifies and ensures the availability of the necessary personnel and equipment within appropriate response times; and/or
 - (2) A written certification by the owner or operator that the necessary personnel and equipment resources, owned or operated by the facility owner or operator, are available to respond to a discharge within appropriate response times; and/or
 - (3) Active membership in a local or regional oil spill removal organization that has identified and ensures adequate access through such membership to necessary personnel and equipment to respond to a discharge within appropriate response times in the specified geographic area; and/or
 - (4) Any other specific arrangement approved by the Regional Administrator upon request of the owner or operator.
- *Discharge* includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying, or dumping of oil, but excludes discharges in compliance with a permit under section 402 of the CWA; discharges resulting from circumstances identified, reviewed, and made a part of the public record with respect to a permit issued or modified under section 402 of the CWA, and subject to a condition in such permit; or continuous or anticipated intermittent discharges from a point source, identified in a permit or permit application under section 402 of the CWA, that are caused by events occurring within the scope of relevant operating or treatment systems. For purposes of this part, the term discharge shall not include any discharge of oil that is authorized by a permit issued under section 13 of the River and Harbor Act of 1899 (33 U.S.C. 407).
- *Facility* means any mobile or fixed, onshore or offshore building, property, parcel, lease, structure, installation, equipment, pipe, or pipeline (other than a vessel or a public vessel) used in oil well drilling operations, oil production, oil refining, oil storage, oil gathering, oil processing, oil transfer, oil distribution, and oil waste treatment, or in which oil is used, as described in appendix A to this part. The boundaries of a facility depend on several site-specific factors, including but not limited to, the ownership or operation of buildings, structures, and equipment on the same site and types of activity at the site. Contiguous or non-contiguous buildings, properties, parcels, leases, structures, installations, pipes, or pipelines under the ownership or operation of the same person may be considered separate facilities. Only this definition governs whether a facility is subject to this part.
- *Farm* means a facility on a tract of land devoted to the production of crops or raising of animals, including fish, which produced and sold, or normally would have produced and sold, \$1,000 or more of agricultural products during a year.
- *Fish and wildlife and sensitive environments* means areas that may be identified by their legal designation or by evaluations of Area Committees (for planning) or members of the Federal On-Scene Coordinator's spill response structure (during responses). These areas may include wetlands, National and State parks, critical habitats for endangered or threatened species, wilderness and natural resource areas, marine sanctuaries and estuarine reserves, conservation areas, preserves, wildlife areas, wildlife refuges, wild and scenic rivers, recreational areas, national forests, Federal and State lands that are research national areas, heritage program areas, land trust areas, and historical and archaeological sites and parks. These areas may also include unique habitats such as aquaculture sites and agricultural surface water intakes, bird nesting areas, critical biological resource areas, designated migratory routes, and designated seasonal habitats.
- *Injury* means a measurable adverse change, either long- or short-term, in the chemical or physical quality or the viability of a natural resource resulting either directly or indirectly from exposure to a discharge, or exposure to a product of reactions resulting from a discharge.
- *Loading/unloading rack* means a fixed structure (such as a platform, gangway) necessary for loading or unloading a tank truck or tank car, which is located at a facility subject to the requirements of this part. A loading/unloading rack includes a loading or unloading arm, and may include any combination of the following: piping assemblages, valves, pumps, shut-off devices, overfill sensors, or personnel safety devices.
- *Maximum extent practicable* means within the limitations used to determine oil spill planning resources and response times for on-water recovery, shoreline protection, and cleanup for worst case discharges from onshore non-transportation-related facilities in adverse weather. It includes the planned capability to respond to a worst case discharge in adverse weather, as contained in a response plan that meets the requirements in §112.20 or in a specific plan approved by the Regional Administrator.
- *Mobile refueler* means a bulk storage container onboard a vehicle or towed, that is designed or used solely to store and transport fuel for transfer into or from an aircraft, motor vehicle, locomotive, vessel, ground service equipment, or other oil storage container.

Spill Prevention, Control, and Countermeasures Plan

Last Modified: June 30, 2016

Page | 38 of 57



Carlisle Mine
MSHA ID: 12-02349

- *Motive power container* means any onboard bulk storage container used primarily to power the movement of a motor vehicle, or ancillary onboard oil-filled operational equipment. An onboard bulk storage container which is used to store or transfer oil for further distribution is not a motive power container. The definition of motive power container does not include oil drilling or workover equipment, including rigs.
- *Navigable waters* mean waters of the United States, including the territorial seas.
 - (1) For purposes of the Clean Water Act, 33 U.S.C. 1251 et seq. and its implementing regulations, subject to the exclusions in paragraph (2) of this definition, the term "waters of the United States" means:
 - (i) All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
 - (ii) All interstate waters, including interstate wetlands;
 - (iii) The territorial seas;
 - (iv) All impoundments of waters otherwise identified as waters of the United States under this section;
 - (v) All tributaries, as defined in paragraph (3)(iii) of this definition, of waters identified in paragraphs (1)(i) through (iii) of this definition;
 - (vi) All waters adjacent to a water identified in paragraphs (1)(i) through (v) of this definition, including wetlands, ponds, lakes, oxbows, impoundments, and similar waters;
 - (vii) All waters in paragraphs (1)(vii)(A) through (E) of this definition where they are determined, on a case-specific basis, to have a significant nexus to a water identified in paragraphs (1)(i) through (iii) of this definition. The waters identified in each of paragraphs (1)(vii)(A) through (E) of this definition are similarly situated and shall be combined, for purposes of a significant nexus analysis, in the watershed that drains to the nearest water identified in paragraphs (1)(i) through (iii) of this definition. Waters identified in this paragraph shall not be combined with waters identified in paragraph (1)(vi) of this section when performing a significant nexus analysis. If waters identified in this paragraph are also an adjacent water under paragraph (1)(vi), they are an adjacent water and no case-specific significant nexus analysis is required.
 - (A) *Prairie potholes.* Prairie potholes are a complex of glacially formed wetlands, usually occurring in depressions that lack permanent natural outlets, located in the upper Midwest.
 - (B) *Carolina bays and Delmarva bays.* Carolina bays and Delmarva bays are ponded, depressional wetlands that occur along the Atlantic coastal plain.
 - (C) *Pocosins.* Pocosins are evergreen shrub and tree dominated wetlands found predominantly along the Central Atlantic coastal plain.
 - (D) *Western vernal pools.* Western vernal pools are seasonal wetlands located in parts of California and associated with topographic depression, soils with poor drainage, mild, wet winters and hot, dry summers.
 - (E) *Texas coastal prairie wetlands.* Texas coastal prairie wetlands are freshwater wetlands that occur as a mosaic of depressions, ridges, intermound flats, and mima mound wetlands located along the Texas Gulf Coast.
 - (viii) All waters located within the 100-year floodplain of a water identified in paragraphs (1)(i) through (iii) of this definition and all waters located within 4,000 feet of the high tide line or ordinary high water mark of a water identified in paragraphs (1)(i) through (v) of this definition where they are determined on a case-specific basis to have a significant nexus to a water identified in paragraphs (1)(i) through (iii) of this definition. For waters determined to have a significant nexus, the entire water is a water of the United States if a portion is located within the 100-year floodplain of a water identified in paragraphs (1)(i) through (iii) of this definition or within 4,000 feet of the high tide line or ordinary high water mark. Waters identified in this paragraph shall not be combined with waters identified in paragraph (1)(vi) of this definition when performing a significant nexus analysis. If waters identified in this paragraph are also an adjacent water under paragraph (1)(vi), they are an adjacent water and no case-specific significant nexus analysis is required.
 - (2) The following are not "waters of the United States" even where they otherwise meet the terms of paragraphs (1)(iv) through (viii) of this definition.
 - (i) The following ditches:
 - (A) Ditches with ephemeral flow that are not a relocated tributary or excavated in a tributary.
 - (B) Ditches with intermittent flow that are not a relocated tributary, excavated in a tributary, or drain wetlands.
 - (C) Ditches that do not flow, either directly or through another water, into a water identified in paragraphs (1)(i) through (iii) of this definition.
 - (ii) The following features:
 - (A) Artificially irrigated areas that would revert to dry land should application of water to that area cease;
 - (B) Artificial, constructed lakes and ponds created in dry land such as farm and stock watering ponds, irrigation ponds, settling basins, fields flooded for rice growing, log cleaning ponds, or cooling ponds;
 - (C) Artificial reflecting pools or swimming pools created in dry land;
 - (D) Small ornamental waters created in dry land;
 - (E) Water-filled depressions created in dry land incidental to mining or construction activity, including pits excavated for obtaining fill, sand, or gravel that fill with water;
 - (F) Erosional features, including gullies, rills, and other ephemeral features that do not meet the definition of tributary, non-wetland swales, and lawfully constructed grassed waterways; and
 - (G) Puddles.
 - (iii) Groundwater, including groundwater drained through subsurface drainage systems.
 - (iv) Stormwater control features constructed to convey, treat, or store stormwater that are created in dry land.
 - (v) Wastewater recycling structures constructed in dry land; detention and retention basins built for wastewater recycling; groundwater recharge basins; percolation ponds built for wastewater recycling; and water distributary structures built for wastewater recycling.

Spill Prevention, Control, and Countermeasures Plan

Last Modified: June 30, 2016

Page | 39 of 57



Carlisle Mine
MSHA ID: 12-02349

(3) In this definition, the following terms apply:

- (i) **Adjacent.** The term adjacent means bordering, contiguous, or neighboring a water identified in paragraphs (1)(i) through (v) of this definition, including waters separated by constructed dikes or barriers, natural river berms, beach dunes, and the like. For purposes of adjacency, an open water such as a pond or lake includes any wetlands within or abutting its ordinary high water mark. Adjacency is not limited to waters located laterally to a water identified in paragraphs (1)(i) through (v) of this definition. Adjacent waters also include all waters that connect segments of a water identified in paragraphs (1)(i) through (v) or are located at the head of a water identified in paragraphs (1)(i) through (v) of this definition and are bordering, contiguous, or neighboring such water. Waters being used for established normal farming, ranching, and silviculture activities (33 U.S.C. 1344(f)) are not adjacent.
- (ii) **Neighboring.** The term neighboring means:
 - (A) All waters located within 100 feet of the ordinary high water mark of a water identified in paragraphs (1)(i) through (v) of this definition. The entire water is neighboring if a portion is located within 100 feet of the ordinary high water mark;
 - (B) All waters located within the 100-year floodplain of a water identified in paragraphs (1)(i) through (v) of this definition and not more than 1,500 feet from the ordinary high water mark of such water. The entire water is neighboring if a portion is located within 1,500 feet of the ordinary high water mark and within the 100-year floodplain;
 - (C) All waters located within 1,500 feet of the high tide line of a water identified in paragraphs (1)(i) or (1)(iii) of this definition, and all waters within 1,500 feet of the ordinary high water mark of the Great Lakes. The entire water is neighboring if a portion is located within 1,500 feet of the high tide line or within 1,500 feet of the ordinary high water mark of the Great Lakes.
- (iii) **Tributary and tributaries.** The terms tributary and tributaries each mean a water that contributes flow, either directly or through another water (including an impoundment identified in paragraph (1)(iv) of this definition), to a water identified in paragraphs (1)(i) through (iii) of this definition that is characterized by the presence of the physical indicators of a bed and banks and an ordinary high water mark. These physical indicators demonstrate there is volume, frequency, and duration of flow sufficient to create a bed and banks and an ordinary high water mark, and thus to qualify as a tributary. A tributary can be a natural, man-altered, or man-made water and includes waters such as rivers, streams, canals, and ditches not excluded under paragraph (2) of this definition. A water that otherwise qualifies as a tributary under this definition does not lose its status as a tributary if, for any length, there are one or more constructed breaks (such as bridges, culverts, pipes, or dams), or one or more natural breaks (such as wetlands along the run of a stream, debris piles, boulder fields, or a stream that flows underground) so long as a bed and banks and an ordinary high water mark can be identified upstream of the break. A water that otherwise qualifies as a tributary under this definition does not lose its status as a tributary if it contributes flow through a water of the United States that does not meet the definition of tributary or through a non-jurisdictional water to a water identified in paragraphs (1)(i) through (iii) of this definition.
- (iv) **Wetlands.** The term wetlands means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.
- (v) **Significant nexus.** The term significant nexus means that a water, including wetlands, either alone or in combination with other similarly situated waters in the region, significantly affects the chemical, physical, or biological integrity of a water identified in paragraphs (1)(i) through (iii) of this definition. The term "in the region" means the watershed that drains to the nearest water identified in paragraphs (1)(i) through (iii) of this definition. For an effect to be significant, it must be more than speculative or insubstantial. Waters are similarly situated when they function alike and are sufficiently close to function together in affecting downstream waters. For purposes of determining whether or not a water has a significant nexus, the water's effect on downstream (1)(i) through (iii) waters shall be assessed by evaluating the aquatic functions identified in paragraphs (3)(v)(A) through (I) of this definition. A water has a significant nexus when any single function or combination of functions performed by the water, alone or together with similarly situated waters in the region, contributes significantly to the chemical, physical, or biological integrity of the nearest water identified in paragraphs (1)(i) through (iii) of this section. Functions relevant to the significant nexus evaluation are the following:
 - (A) Sediment trapping,
 - (B) Nutrient recycling,
 - (C) Pollutant trapping, transformation, filtering, and transport,
 - (D) Retention and attenuation of flood waters,
 - (E) Runoff storage,
 - (F) Contribution of flow,
 - (G) Export of organic matter,
 - (H) Export of food resources, and
 - (I) Provision of life cycle dependent aquatic habitat (such as foraging, feeding, nesting, breeding, spawning, or use as a nursery area) for species located in a water identified in paragraphs (1)(i) through (iii) of this definition.
- (vi) **Ordinary high water mark.** The term ordinary high water mark means that line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.
- (vii) **High tide line.** The term high tide line means the line of intersection of the land with the water's surface at the maximum height reached by a rising tide. The high tide line may be determined, in the absence of actual data, by a line of oil or scum along shore objects, a more or less continuous deposit of fine shell or debris on the foreshore or berm, other physical markings or characteristics, vegetation lines, tidal gages, or other suitable means that delineate the general height reached by a rising tide. The line encompasses spring high tides and other high tides that occur with periodic frequency but does not include storm surges in which there is a departure from the normal or predicted reach of the tide due to the piling up of water against a coast by strong winds such as those accompanying a hurricane or other intense storm.

Spill Prevention, Control, and Countermeasures Plan

Last Modified: June 30, 2016

Page | 40 of 57



Carlisle Mine
MSHA ID: 12-02349

- *Non-petroleum oil* means oil of any kind that is not petroleum-based, including but not limited to: Fats, oils, and greases of animal, fish, or marine mammal origin; and vegetable oils, including oils from seeds, nuts, fruits, and kernels.
- *Offshore facility* means any facility of any kind (other than a vessel or public vessel) located in, on, or under any of the navigable waters of the United States, and any facility of any kind that is subject to the jurisdiction of the United States and is located in, on, or under any other waters.
- *Oil* means oil of any kind or in any form, including, but not limited to: fats, oils, or greases of animal, fish, or marine mammal origin; vegetable oils, including oils from seeds, nuts, fruits, or kernels; and, other oils and greases, including petroleum, fuel oil, sludge, synthetic oils, mineral oils, oil refuse, or oil mixed with wastes other than dredged spoil.
- *Oil-filled operational equipment* means equipment that includes an oil storage container (or multiple containers) in which the oil is present solely to support the function of the apparatus or the device. Oil-filled operational equipment is not considered a bulk storage container, and does not include oil-filled manufacturing equipment (flow-through process). Examples of oil-filled operational equipment include, but are not limited to, hydraulic systems, lubricating systems (e.g., those for pumps, compressors and other rotating equipment, including pumpjack lubrication systems), gear boxes, machining coolant systems, heat transfer systems, transformers, circuit breakers, electrical switches, and other systems containing oil solely to enable the operation of the device.
- *Oil Spill Removal Organization* means an entity that provides oil spill response resources, and includes any for-profit or not-for-profit contractor, cooperative, or in-house response resources that have been established in a geographic area to provide required response resources.
- *Onshore facility* means any facility of any kind located in, on, or under any land within the United States, other than submerged lands.
- *Owner or operator* means any person owning or operating an onshore facility or an offshore facility, and in the case of any abandoned offshore facility, the person who owned or operated or maintained the facility immediately prior to such abandonment.
- *Partially buried tank* means a storage container that is partially inserted or constructed in the ground, but not entirely below grade, and not completely covered with earth, sand, gravel, asphalt, or other material. A partially buried tank is considered an aboveground storage container for purposes of this part.
- *Permanently closed* means any container or facility for which:
 - (1) All liquid and sludge has been removed from each container and connecting line; and
 - (2) All connecting lines and piping have been disconnected from the container and blanked off, all valves (except for ventilation valves) have been closed and locked, and conspicuous signs have been posted on each container stating that it is a permanently closed container and noting the date of closure.
- *Person* includes an individual, firm, corporation, association, or partnership.
- *Petroleum oil* means petroleum in any form, including but not limited to crude oil, fuel oil, mineral oil, sludge, oil refuse, and refined products.
- *Produced water container* means a storage container at an oil production facility used to store the produced water after initial oil/water separation, and prior to reinjection, beneficial reuse, discharge, or transfer for disposal.
- *Production facility* means all structures (including but not limited to wells, platforms, or storage facilities), piping (including but not limited to flowlines or intra-facility gathering lines), or equipment (including but not limited to workover equipment, separation equipment, or auxiliary non-transportation-related equipment) used in the production, extraction, recovery, lifting, stabilization, separation or treating of oil (including condensate), or associated storage or measurement, and is located in an oil or gas field, at a facility. This definition governs whether such structures, piping, or equipment are subject to a specific section of this part.
- *Regional Administrator* means the Regional Administrator of the Environmental Protection Agency, in and for the Region in which the facility is located.
- *Repair* means any work necessary to maintain or restore a container to a condition suitable for safe operation, other than that necessary for ordinary, day-to-day maintenance to maintain the functional integrity of the container and that does not weaken the container.
- *Spill Prevention, Control, and Countermeasure Plan; SPCC Plan, or Plan* means the document required by §112.3 that details the equipment, workforce, procedures, and steps to prevent, control, and provide adequate countermeasures to a discharge.
- *Storage capacity of a container* means the shell capacity of the container.
- *Transportation-related and non-transportation-related*, as applied to an onshore or offshore facility, are defined in the Memorandum of Understanding between the Secretary of Transportation and the Administrator of the Environmental Protection Agency, dated November 24, 1971, (appendix A of this part).
- *United States* means the States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, the U.S. Virgin Islands, and the Pacific Island Governments.
- *Vegetable oil* means a non-petroleum oil or fat of vegetable origin, including but not limited to oils and fats derived from plant seeds, nuts, fruits, and kernels.
- *Vessel* means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water, other than a public vessel.
- *Worst case discharge* for an onshore non-transportation-related facility means the largest foreseeable discharge in adverse weather conditions as determined using the worksheets in appendix D to this part.

[67 FR 47140, July 17, 2002, as amended at 71 FR 77290, Dec. 26, 2006; 73 FR 71943, Nov. 26, 2008; 73 FR 74300, Dec. 5, 2008; 80 FR 37108, June 29, 2015]

Spill Prevention, Control, and Countermeasures Plan

Last Modified: June 30, 2016

Page | 41 of 57



Carlisle Mine
MSHA ID: 12-02349

§112.3 Requirement to prepare and implement a Spill Prevention, Control, and Countermeasure Plan.

The owner or operator of an onshore or offshore facility subject to this section must prepare and implement a Spill Prevention Control and Countermeasure Plan (hereafter "SPCC Plan" or "Plan"), in accordance with §112.7 and any other applicable section of this part.

- (a)(1) Except as otherwise provided in this section, if your facility, or mobile or portable facility, was in operation on or before August 16, 2002, you must maintain your Plan, but must amend it, if necessary to ensure compliance with this part, and implement the amended Plan no later than November 10, 2011. If such a facility becomes operational after August 16, 2002, through November 10, 2011, and could reasonably be expected to have a discharge as described in §112.1(b), you must prepare and implement a Plan on or before November 10, 2011. If such a facility (excluding oil production facilities) becomes operational after November 10, 2011, and could reasonably be expected to have a discharge as described in §112.1(b), you must prepare and implement a Plan before you begin operations. You are not required to prepare a new Plan each time you move a mobile or portable facility to a new site; the Plan may be general. When you move the mobile or portable facility, you must locate and install it using the discharge prevention practices outlined in the Plan for the facility. The Plan is applicable only while the mobile or portable facility is in a fixed (non-transportation) operating mode.
- (2) If your drilling, production or workover facility, including a mobile or portable facility, is offshore or has an offshore component; or your onshore facility is required to have and submit a Facility Response Plan pursuant to 40 CFR 112.20(a), and was in operation on or before August 16, 2002, you must maintain your Plan, but must amend it, if necessary to ensure compliance with this part, and implement the amended Plan no later than November 10, 2010. If such a facility becomes operational after August 16, 2002, through November 10, 2010, and could reasonably be expected to have a discharge as described in §112.1(b), you must prepare and implement a Plan on or before November 10, 2010. If such a facility (excluding oil production facilities) becomes operational after November 10, 2010, and could reasonably be expected to have a discharge as described in §112.1(b), you must prepare and implement a Plan before you begin operations. You are not required to prepare a new Plan each time you move a mobile or portable facility to a new site; the Plan may be general. When you move the mobile or portable facility, you must locate and install it using the discharge prevention practices outlined in the Plan for the facility. The Plan is applicable only while the mobile or portable facility is in a fixed (non-transportation) operating mode.
- (3) If your farm, as defined in §112.2, was in operation on or before August 16, 2002, you must maintain your Plan, but must amend it, if necessary to ensure compliance with this part, and implement the amended Plan on or before May 10, 2013. If your farm becomes operational after August 16, 2002, through May 10, 2013, and could reasonably be expected to have a discharge as described in §112.1(b), you must prepare and implement a Plan on or before May 10, 2013. If your farm becomes operational after May 10, 2013, and could reasonably be expected to have a discharge as described in §112.1(b), you must prepare and implement a Plan before you begin operations.
- (b) If your oil production facility as described in paragraph (a)(1) of this section becomes operational after November 10, 2011, or as described in paragraph (a)(2) of this section becomes operational after November 10, 2010, and could reasonably be expected to have a discharge as described in §112.1(b), you must prepare and implement a Plan within six months after you begin operations.
- (c) [Reserved]
- (d) Except as provided in §112.6, a licensed Professional Engineer must review and certify a Plan for it to be effective to satisfy the requirements of this part.
 - (1) By means of this certification the Professional Engineer attests:
 - (i) That he is familiar with the requirements of this part;
 - (ii) That he or his agent has visited and examined the facility;
 - (iii) That the Plan has been prepared in accordance with good engineering practice, including consideration of applicable industry standards, and with the requirements of this part;
 - (iv) That procedures for required inspections and testing have been established; and
 - (v) That the Plan is adequate for the facility.
 - (vi) That, if applicable, for a produced water container subject to §112.9(c)(6), any procedure to minimize the amount of free-phase oil is designed to reduce the accumulation of free-phase oil and the procedures and frequency for required inspections, maintenance and testing have been established and are described in the Plan.
 - (2) Such certification shall in no way relieve the owner or operator of a facility of his duty to prepare and fully implement such Plan in accordance with the requirements of this part.
- (e) If you are the owner or operator of a facility for which a Plan is required under this section, you must:
 - (1) Maintain a complete copy of the Plan at the facility if the facility is normally attended at least four hours per day, or at the nearest field office if the facility is not so attended, and
 - (2) Have the Plan available to the Regional Administrator for on-site review during normal working hours.
- (f) Extension of time.
 - (1) The Regional Administrator may authorize an extension of time for the preparation and full implementation of a Plan, or any amendment thereto, beyond the time permitted for the preparation, implementation, or amendment of a Plan under this part, when he finds that the owner or operator of a facility subject to this section, cannot fully comply with the requirements as a result of either nonavailability of qualified personnel, or delays in construction or equipment delivery beyond the control and without the fault of such owner or operator or his agents or employees.
 - (2) If you are an owner or operator seeking an extension of time under paragraph (f)(1) of this section, you may submit a written extension request to the Regional Administrator. Your request must include:
 - (i) A full explanation of the cause for any such delay and the specific aspects of the Plan affected by the delay;
 - (ii) A full discussion of actions being taken or contemplated to minimize or mitigate such delay; and
 - (iii) A proposed time schedule for the implementation of any corrective actions being taken or contemplated, including interim dates for completion of tests or studies, installation and operation of any necessary equipment, or other preventive measures. In addition you may present additional oral or written statements in support of your extension request.
 - (3) The submission of a written extension request under paragraph (f)(2) of this section does not relieve you of your obligation to comply with the requirements of this part. The Regional Administrator may request a copy of the Plan to evaluate the extension request. When the Regional Administrator authorizes an extension of time for particular equipment or other specific aspects of the Plan, such extension does not affect your obligation to comply with the requirements related to other equipment or other specific aspects of the Plan for which the Regional Administrator has not expressly authorized an extension.

Spill Prevention, Control, and Countermeasures Plan

Last Modified: June 30, 2016

Page | 42 of 57



Carlisle Mine
MSHA ID: 12-02349

(g) Qualified Facilities. The owner or operator of a qualified facility as defined in this subparagraph may self-certify his facility's Plan, as provided in §112.6. A qualified facility is one that meets the following Tier I or Tier II qualified facility criteria:

- (1) A Tier I qualified facility meets the qualification criteria in paragraph (g)(2) of this section and has no individual aboveground oil storage container with a capacity greater than 5,000 U.S. gallons.
- (2) A Tier II qualified facility is one that has had no single discharge as described in §112.1(b) exceeding 1,000 U.S. gallons or no two discharges as described in §112.1(b) each exceeding 42 U.S. gallons within any twelve month period in the three years prior to the SPCC Plan self-certification date, or since becoming subject to this part if the facility has been in operation for less than three years (other than discharges as described in §112.1(b) that are the result of natural disasters, acts of war, or terrorism), and has an aggregate aboveground oil storage capacity of 10,000 U.S. gallons or less.

[67 FR 47140, July 17, 2002, as amended at 68 FR 1351, Jan. 9, 2003; 68 FR 18894, Apr. 17, 2003; 69 FR 48798, Aug. 11, 2004; 71 FR 8466, Feb. 17, 2006; 71 FR 77290, Dec. 26, 2006; 72 FR 27447, May 16, 2007; 73 FR 74301, Dec. 5, 2008, 74 FR 29141, June 19, 2009; 74 FR 58809, Nov. 13, 2009; 75 FR 63102, Oct. 14, 2010; 76 FR 21660, Apr. 18, 2011; 76 FR 64248, Oct. 18, 2011; 76 FR 72124, Nov. 22, 2011]

§112.4 Amendment of Spill Prevention, Control, and Countermeasure Plan by Regional Administrator.

If you are the owner or operator of a facility subject to this part, you must:

- (a) Notwithstanding compliance with §112.3, whenever your facility has discharged more than 1,000 U.S. gallons of oil in a single discharge as described in §112.1(b), or discharged more than 42 U.S. gallons of oil in each of two discharges as described in §112.1(b), occurring within any twelve month period, submit the following information to the Regional Administrator within 60 days from the time the facility becomes subject to this section:
 - (1) Name of the facility;
 - (2) Your name;
 - (3) Location of the facility;
 - (4) Maximum storage or handling capacity of the facility and normal daily throughput;
 - (5) Corrective action and countermeasures you have taken, including a description of equipment repairs and replacements;
 - (6) An adequate description of the facility, including maps, flow diagrams, and topographical maps, as necessary;
 - (7) The cause of such discharge as described in §112.1(b), including a failure analysis of the system or subsystem in which the failure occurred;
 - (8) Additional preventive measures you have taken or contemplated to minimize the possibility of recurrence; and
 - (9) Such other information as the Regional Administrator may reasonably require pertinent to the Plan or discharge.
- (b) Take no action under this section until it applies to your facility. This section does not apply until the expiration of the time permitted for the initial preparation and implementation of the Plan under §112.3, but not including any amendments to the Plan.
- (c) Send to the appropriate agency or agencies in charge of oil pollution control activities in the State in which the facility is located a complete copy of all information you provided to the Regional Administrator under paragraph (a) of this section. Upon receipt of the information such State agency or agencies may conduct a review and make recommendations to the Regional Administrator as to further procedures, methods, equipment, and other requirements necessary to prevent and to contain discharges from your facility.
- (d) Amend your Plan, if after review by the Regional Administrator of the information you submit under paragraph (a) of this section, or submission of information to EPA by the State agency under paragraph (c) of this section, or after on-site review of your Plan, the Regional Administrator requires that you do so. The Regional Administrator may require you to amend your Plan if he finds that it does not meet the requirements of this part or that amendment is necessary to prevent and contain discharges from your facility.
- (e) Act in accordance with this paragraph when the Regional Administrator proposes by certified mail or by personal delivery that you amend your SPCC Plan. If the owner or operator is a corporation, he must also notify by mail the registered agent of such corporation, if any and if known, in the State in which the facility is located. The Regional Administrator must specify the terms of such proposed amendment. Within 30 days from receipt of such notice, you may submit written information, views, and arguments on the proposed amendment. After considering all relevant material presented, the Regional Administrator must either notify you of any amendment required or rescind the notice. You must amend your Plan as required within 30 days after such notice, unless the Regional Administrator, for good cause, specifies another effective date. You must implement the amended Plan as soon as possible, but not later than six months after you amend your Plan, unless the Regional Administrator specifies another date.
- (f) If you appeal a decision made by the Regional Administrator requiring an amendment to an SPCC Plan, send the appeal to the EPA Administrator in writing within 30 days of receipt of the notice from the Regional Administrator requiring the amendment under paragraph (e) of this section. You must send a complete copy of the appeal to the Regional Administrator at the time you make the appeal. The appeal must contain a clear and concise statement of the issues and points of fact in the case. It may also contain additional information from you, or from any other person. The EPA Administrator may request additional information from you, or from any other person. The EPA Administrator must render a decision within 60 days of receiving the appeal and must notify you of his decision.

Spill Prevention, Control, and Countermeasures Plan

Last Modified: June 30, 2016

Page | 43 of 57



Carlisle Mine
MSHA ID: 12-02349

§112.5 Amendment of Spill Prevention, Control, and Countermeasure Plan by owners or operators.

If you are the owner or operator of a facility subject to this part, you must:

- (a) Amend the SPCC Plan for your facility in accordance with the general requirements in §112.7, and with any specific section of this part applicable to your facility, when there is a change in the facility design, construction, operation, or maintenance that materially affects its potential for a discharge as described in §112.1(b). Examples of changes that may require amendment of the Plan include, but are not limited to: commissioning or decommissioning containers; replacement, reconstruction, or movement of containers; reconstruction, replacement, or installation of piping systems; construction or demolition that might alter secondary containment structures; changes of product or service; or revision of standard operation or maintenance procedures at a facility. An amendment made under this section must be prepared within six months, and implemented as soon as possible, but not later than six months following preparation of the amendment.
- (b) Notwithstanding compliance with paragraph (a) of this section, complete a review and evaluation of the SPCC Plan at least once every five years from the date your facility becomes subject to this part; or, if your facility was in operation on or before August 16, 2002, five years from the date your last review was required under this part. As a result of this review and evaluation, you must amend your SPCC Plan within six months of the review to include more effective prevention and control technology if the technology has been field-proven at the time of the review and will significantly reduce the likelihood of a discharge as described in §112.1(b) from the facility. You must implement any amendment as soon as possible, but not later than six months following preparation of any amendment. You must document your completion of the review and evaluation, and must sign a statement as to whether you will amend the Plan, either at the beginning or end of the Plan or in a log or an appendix to the Plan. The following words will suffice, "I have completed review and evaluation of the SPCC Plan for (name of facility) on (date), and will (will not) amend the Plan as a result."
- (c) Except as provided in §112.6, have a Professional Engineer certify any technical amendments to your Plan in accordance with §112.3(d).

[67 FR 47140, July 17, 2002, as amended at 71 FR 77291, Dec. 26, 2006; 73 FR 74301, Dec. 5, 2008; 74 FR 58809, Nov. 13, 2009]

§112.6 Qualified Facilities Plan Requirements.

Qualified facilities meeting the Tier I applicability criteria in §112.3(g)(1) are subject to the requirements in paragraph (a) of this section. Qualified facilities meeting the Tier II applicability criteria in §112.3(g)(2) are subject to the requirements in paragraph (b) of this section.

- (a) Tier I Qualified Facilities—(1) Preparation and Self-Certification of the Plan. If you are an owner or operator of a facility that meets the Tier I qualified facility criteria in §112.3(g)(1), you must either: comply with the requirements of paragraph (a)(3) of this section; or prepare and implement a Plan meeting requirements of paragraph (b) of this section; or prepare and implement a Plan meeting the general Plan requirements in §112.7 and applicable requirements in subparts B and C, including having the Plan certified by a Professional Engineer as required under §112.3(d). If you do not follow the appendix G template, you must prepare an equivalent Plan that meets all of the applicable requirements listed in this part, and you must supplement it with a section cross-referencing the location of requirements listed in this part and the equivalent requirements in the other prevention plan. To complete the template in appendix G, you must certify that:
 - (i) You are familiar with the applicable requirements of 40 CFR part 112;
 - (ii) You have visited and examined the facility;
 - (iii) You prepared the Plan in accordance with accepted and sound industry practices and standards;
 - (iv) You have established procedures for required inspections and testing in accordance with industry inspection and testing standards or recommended practices;
 - (v) You will fully implement the Plan;
 - (vi) The facility meets the qualification criteria in §112.3(g)(1);
 - (vii) The Plan does not deviate from any requirement of this part as allowed by §112.7(a)(2) and 112.7(d) or include measures pursuant to §112.9(c)(6) for produced water containers and any associated piping; and
 - (viii) The Plan and individual(s) responsible for implementing this Plan have the approval of management, and the facility owner or operator has committed the necessary resources to fully implement this Plan.
- (2) Technical Amendments. You must certify any technical amendments to your Plan in accordance with paragraph (a)(1) of this section when there is a change in the facility design, construction, operation, or maintenance that affects its potential for a discharge as described in §112.1(b). If the facility change results in the facility no longer meeting the Tier I qualifying criteria in §112.3(g)(1) because an individual oil storage container capacity exceeds 5,000 U.S. gallons or the facility capacity exceeds 10,000 U.S. gallons in aggregate aboveground storage capacity, within six months following preparation of the amendment, you must either:
 - (i) Prepare and implement a Plan in accordance with §112.6(b) if you meet the Tier II qualified facility criteria in §112.3(g)(2); or
 - (ii) Prepare and implement a Plan in accordance with the general Plan requirements in §112.7, and applicable requirements in subparts B and C, including having the Plan certified by a Professional Engineer as required under §112.3(d).



Carlisle Mine
MSHA ID: 12-02349

(3) Plan Template and Applicable Requirements. Prepare and implement an SPCC Plan that meets the following requirements under §112.7 and in subparts B and C of this part: introductory paragraph of §§112.7, 112.7(a)(3)(i), 112.7(a)(3)(iv), 112.7(a)(3)(vi), 112.7(a)(4), 112.7(a)(5), 112.7(c), 112.7(e), 112.7(f), 112.7(g), 112.7(k), 112.8(b)(1), 112.8(b)(2), 112.8(c)(1), 112.8(c)(3), 112.8(c)(4), 112.8(c)(5), 112.8(c)(6), 112.8(c)(10), 112.8(d)(4), 112.9(b), 112.9(c)(1), 112.9(c)(2), 112.9(c)(3), 112.9(c)(4), 112.9(c)(5), 112.9(d)(1), 112.9(d)(3), 112.9(d)(4), 112.10(b), 112.10(c), 112.10(d), 112.12(b)(1), 112.12(b)(2), 112.12(c)(1), 112.12(c)(3), 112.12(c)(4), 112.12(c)(5), 112.12(c)(6), 112.12(c)(10), and 112.12(d)(4). The template in appendix G to this part has been developed to meet the requirements of 40 CFR part 112 and, when completed and signed by the owner or operator, may be used as the SPCC Plan. Additionally, you must meet the following requirements:

- (i) Failure analysis, in lieu of the requirements in §112.7(b). Where experience indicates a reasonable potential for equipment failure (such as loading or unloading equipment, tank overflow, rupture, or leakage, or any other equipment known to be a source of discharge), include in your Plan a prediction of the direction and total quantity of oil which could be discharged from the facility as a result of each type of major equipment failure.
 - (ii) Bulk storage container secondary containment, in lieu of the requirements in §§112.8(c)(2) and (c)(11) and 112.12(c)(2) and (c)(11). Construct all bulk storage container installations (except mobile refuelers and other non-transportation-related tank trucks), including mobile or portable oil storage containers, so that you provide a secondary means of containment for the entire capacity of the largest single container plus additional capacity to contain precipitation. Dikes, containment curbs, and pits are commonly employed for this purpose. You may also use an alternative system consisting of a drainage trench enclosure that must be arranged so that any discharge will terminate and be safely confined in a catchment basin or holding pond. Position or locate mobile or portable oil storage containers to prevent a discharge as described in §112.1(b).
 - (iii) Overfill prevention, in lieu of the requirements in §§112.8(c)(8) and 112.12(c)(8). Ensure that each container is provided with a system or documented procedure to prevent overfills of the container, describe the system or procedure in the SPCC Plan and regularly test to ensure proper operation or efficacy.
- (b) Tier II Qualified Facilities—(1) Preparation and Self-Certification of Plan. If you are the owner or operator of a facility that meets the Tier II qualified facility criteria in §112.3(g)(2), you may choose to self-certify your Plan. You must certify in the Plan that:
- (i) You are familiar with the requirements of this part;
 - (ii) You have visited and examined the facility;
 - (iii) The Plan has been prepared in accordance with accepted and sound industry practices and standards, and with the requirements of this part;
 - (iv) Procedures for required inspections and testing have been established;
 - (v) You will fully implement the Plan;
 - (vi) The facility meets the qualification criteria set forth under §112.3(g)(2);
 - (vii) The Plan does not deviate from any requirement of this part as allowed by §112.7(a)(2) and 112.7(d) or include measures pursuant to §112.9(c)(6) for produced water containers and any associated piping, except as provided in paragraph (b)(3) of this section; and
 - (viii) The Plan and individual(s) responsible for implementing the Plan have the full approval of management and the facility owner or operator has committed the necessary resources to fully implement the Plan.
- (2) Technical Amendments. If you self-certify your Plan pursuant to paragraph (b)(1) of this section, you must certify any technical amendments to your Plan in accordance with paragraph (b)(1) of this section when there is a change in the facility design, construction, operation, or maintenance that affects its potential for a discharge as described in §112.1(b), except:
- (i) If a Professional Engineer certified a portion of your Plan in accordance with paragraph (b)(4) of this section, and the technical amendment affects this portion of the Plan, you must have the amended provisions of your Plan certified by a Professional Engineer in accordance with paragraph (b)(4)(ii) of this section.
 - (ii) If the change is such that the facility no longer meets the Tier II qualifying criteria in §112.3(g)(2) because it exceeds 10,000 U.S. gallons in aggregate aboveground storage capacity you must, within six months following the change, prepare and implement a Plan in accordance with the general Plan requirements in §112.7 and the applicable requirements in subparts B and C of this part, including having the Plan certified by a Professional Engineer as required under §112.3(d).
- (3) Applicable Requirements. Except as provided in this paragraph, your self-certified SPCC Plan must comply with §112.7 and the applicable requirements in subparts B and C of this part:
- (i) Environmental Equivalence. Your Plan may not include alternate methods which provide environmental equivalence pursuant to §112.7(a)(2), unless each alternate method has been reviewed and certified in writing by a Professional Engineer, as provided in paragraph (b)(4) of this section.
 - (ii) Impracticability. Your Plan may not include any determinations that secondary containment is impracticable and provisions in lieu of secondary containment pursuant to §112.7(d), unless each such determination and alternate measure has been reviewed and certified in writing by a Professional Engineer, as provided in paragraph (b)(4) of this section.
 - (iii) Produced Water Containers. Your Plan may not include any alternative procedures for skimming produced water containers in lieu of sized secondary containment pursuant to §112.9(c)(6), unless they have been reviewed and certified in writing by a Professional Engineer, as provided in paragraph (b)(4) of this section.

Spill Prevention, Control, and Countermeasures Plan

Last Modified: June 30, 2016

Page | 45 of 57



Carlisle Mine
MSHA ID: 12-02349

(4) Professional Engineer Certification of Portions of a Qualified Facility's Self-Certified Plan.

- (i) As described in paragraph (b)(3) of this section, the facility owner or operator may not self-certify alternative measures allowed under §112.7(a)(2) or (d), that are included in the facility's Plan. Such measures must be reviewed and certified, in writing, by a licensed Professional Engineer. For each alternative measure allowed under §112.7(a)(2), the Plan must be accompanied by a written statement by a Professional Engineer that states the reason for nonconformance and describes the alternative method and how it provides equivalent environmental protection in accordance with §112.7(a)(2). For each determination of impracticability of secondary containment pursuant to §112.7(d), the Plan must clearly explain why secondary containment measures are not practicable at this facility and provide the alternative measures required in §112.7(d) in lieu of secondary containment. By certifying each measure allowed under §112.7(a)(2) and (d), the Professional Engineer attests:
 - (A) That he is familiar with the requirements of this part;
 - (B) That he or his agent has visited and examined the facility; and
 - (C) That the alternative method of environmental equivalence in accordance with §112.7(a)(2) or the determination of impracticability and alternative measures in accordance with §112.7(d) is consistent with good engineering practice, including consideration of applicable industry standards, and with the requirements of this part.
- (ii) As described in paragraph (b)(3) of this section, the facility owner or operator may not self-certify measures as described in §112.9(c)(6) for produced water containers and any associated piping. Such measures must be reviewed and certified, in writing, by a licensed Professional Engineer, in accordance with §112.3(d)(1)(vi).
- (iii) The review and certification by the Professional Engineer under this paragraph is limited to the alternative method which achieves equivalent environmental protection pursuant to §112.7(a)(2); to the impracticability determination and measures in lieu of secondary containment pursuant to §112.7(d); or the measures pursuant to §112.9(c)(6) for produced water containers and any associated piping and appurtenances downstream from the container.

[73 FR 74302, Dec. 5, 2008, as amended at 74 FR 58810, Nov. 13, 2009]

§112.7 General requirements for Spill Prevention, Control, and Countermeasure Plans.

If you are the owner or operator of a facility subject to this part you must prepare a Plan in accordance with good engineering practices. The Plan must have the full approval of management at a level of authority to commit the necessary resources to fully implement the Plan. You must prepare the Plan in writing. If you do not follow the sequence specified in this section for the Plan, you must prepare an equivalent Plan acceptable to the Regional Administrator that meets all of the applicable requirements listed in this part, and you must supplement it with a section cross-referencing the location of requirements listed in this part and the equivalent requirements in the other prevention plan. If the Plan calls for additional facilities or procedures, methods, or equipment not yet fully operational, you must discuss these items in separate paragraphs, and must explain separately the details of installation and operational start-up. As detailed elsewhere in this section, you must also:

- (a)(1) Include a discussion of your facility's conformance with the requirements listed in this part.
- (2) Comply with all applicable requirements listed in this part. Except as provided in §112.6, your Plan may deviate from the requirements in paragraphs (g), (h)(2) and (3), and (i) of this section and the requirements in subparts B and C of this part, except the secondary containment requirements in paragraphs (c) and (h)(1) of this section, and §§112.8(c)(2), 112.8(c)(11), 112.9(c)(2), 112.9(d)(3), 112.10(c), 112.12(c)(2), and 112.12(c)(11), where applicable to a specific facility, if you provide equivalent environmental protection by some other means of spill prevention, control, or countermeasure. Where your Plan does not conform to the applicable requirements in paragraphs (g), (h)(2) and (3), and (i) of this section, or the requirements of subparts B and C of this part, except the secondary containment requirements in paragraph (c) and (h)(1) of this section, and §§112.8(c)(2), 112.8(c)(11), 112.9(c)(2), 112.10(c), 112.12(c)(2), and 112.12(c)(11), you must state the reasons for nonconformance in your Plan and describe in detail alternate methods and how you will achieve equivalent environmental protection. If the Regional Administrator determines that the measures described in your Plan do not provide equivalent environmental protection, he may require that you amend your Plan, following the procedures in §112.4(d) and (e).
- (3) Describe in your Plan the physical layout of the facility and include a facility diagram, which must mark the location and contents of each fixed oil storage container and the storage area where mobile or portable containers are located. The facility diagram must identify the location of and mark as "exempt" underground tanks that are otherwise exempted from the requirements of this part under §112.1(d)(4). The facility diagram must also include all transfer stations and connecting pipes, including intra-facility gathering lines that are otherwise exempted from the requirements of this part under §112.1(d)(11). You must also address in your Plan:
 - (i) The type of oil in each fixed container and its storage capacity. For mobile or portable containers, either provide the type of oil and storage capacity for each container or provide an estimate of the potential number of mobile or portable containers, the types of oil, and anticipated storage capacities;
 - (ii) Discharge prevention measures including procedures for routine handling of products (loading, unloading, and facility transfers, etc.);
 - (iii) Discharge or drainage controls such as secondary containment around containers and other structures, equipment, and procedures for the control of a discharge;
 - (iv) Countermeasures for discharge discovery, response, and cleanup (both the facility's capability and those that might be required of a contractor);
 - (v) Methods of disposal of recovered materials in accordance with applicable legal requirements; and
 - (vi) Contact list and phone numbers for the facility response coordinator, National Response Center, cleanup contractors with whom you have an agreement for response, and all appropriate Federal, State, and local agencies who must be contacted in case of a discharge as described in §112.1(b).
- (4) Unless you have submitted a response plan under §112.20, provide information and procedures in your Plan to enable a person reporting a discharge as described in §112.1(b) to relate information on the exact address or location and phone number of the facility; the date and time of the discharge, the type of material discharged; estimates of the total quantity discharged; estimates of the quantity discharged as described in §112.1(b); the source of the discharge; a description of all affected media; the cause of the discharge; any damages or injuries caused by the discharge; actions being used to stop, remove, and mitigate the effects of the discharge; whether an evacuation may be needed; and, the names of individuals and/or organizations who have also been contacted.

Spill Prevention, Control, and Countermeasures Plan

Last Modified: June 30, 2016

Page | 46 of 57



Carlisle Mine
MSHA ID: 12-02349

- (5) Unless you have submitted a response plan under §112.20, organize portions of the Plan describing procedures you will use when a discharge occurs in a way that will make them readily usable in an emergency, and include appropriate supporting material as appendices.
- (b) Where experience indicates a reasonable potential for equipment failure (such as loading or unloading equipment, tank overflow, rupture, or leakage, or any other equipment known to be a source of a discharge), include in your Plan a prediction of the direction, rate of flow, and total quantity of oil which could be discharged from the facility as a result of each type of major equipment failure.
- (c) Provide appropriate containment and/or diversionary structures or equipment to prevent a discharge as described in §112.1(b), except as provided in paragraph (k) of this section for qualified oil-filled operational equipment, and except as provided in §112.9(d)(3) for flowlines and intra-facility gathering lines at an oil production facility. The entire containment system, including walls and floor, must be capable of containing oil and must be constructed so that any discharge from a primary containment system, such as a tank, will not escape the containment system before cleanup occurs. In determining the method, design, and capacity for secondary containment, you need only to address the typical failure mode, and the most likely quantity of oil that would be discharged. Secondary containment may be either active or passive in design. At a minimum, you must use one of the following prevention systems or its equivalent:
- (1) For onshore facilities:
 - (i) Dikes, berms, or retaining walls sufficiently impervious to contain oil;
 - (ii) Curbing or drip pans;
 - (iii) Sumps and collection systems;
 - (iv) Culverting, gutters, or other drainage systems;
 - (v) Weirs, booms, or other barriers;
 - (vi) Spill diversion ponds;
 - (vii) Retention ponds; or
 - (viii) Sorbent materials
 - (2) For offshore facilities:
 - (i) Curbing or drip pans; or
 - (ii) Sumps and collection systems.
- (d) Provided your Plan is certified by a licensed Professional Engineer under §112.3(d), or, in the case of a qualified facility that meets the criteria in §112.3(g), the relevant sections of your Plan are certified by a licensed Professional Engineer under §112.6(d), if you determine that the installation of any of the structures or pieces of equipment listed in paragraphs (c) and (h)(1) of this section, and §§112.8(c)(2), 112.8(c)(11), 112.9(c)(2), 112.10(c), 112.12(c)(2), and 112.12(c)(11) to prevent a discharge as described in §112.1(b) from any onshore or offshore facility is not practicable, you must clearly explain in your Plan why such measures are not practicable; for bulk storage containers, conduct both periodic integrity testing of the containers and periodic integrity and leak testing of the valves and piping; and, unless you have submitted a response plan under §112.20, provide in your Plan the following:
- (1) An oil spill contingency plan following the provisions of part 109 of this chapter.
 - (2) A written commitment of manpower, equipment, and materials required to expeditiously control and remove any quantity of oil discharged that may be harmful.
- (e) Inspections, tests, and records. Conduct inspections and tests required by this part in accordance with written procedures that you or the certifying engineer develop for the facility. You must keep these written procedures and a record of the inspections and tests, signed by the appropriate supervisor or inspector, with the SPCC Plan for a period of three years. Records of inspections and tests kept under usual and customary business practices will suffice for purposes of this paragraph.
- (f) Personnel, training, and discharge prevention procedures. (1) At a minimum, train your oil-handling personnel in the operation and maintenance of equipment to prevent discharges; discharge procedure protocols; applicable pollution control laws, rules, and regulations; general facility operations; and, the contents of the facility SPCC Plan.
- (2) Designate a person at each applicable facility who is accountable for discharge prevention and who reports to facility management.
- (3) Schedule and conduct discharge prevention briefings for your oil-handling personnel at least once a year to assure adequate understanding of the SPCC Plan for that facility. Such briefings must highlight and describe known discharges as described in §112.1(b) or failures, malfunctioning components, and any recently developed precautionary measures.
- (g) Security (excluding oil production facilities). Describe in your Plan how you secure and control access to the oil handling, processing and storage areas; secure master flow and drain valves; prevent unauthorized access to starter controls on oil pumps; secure out-of-service and loading/unloading connections of oil pipelines; and address the appropriateness of security lighting to both prevent acts of vandalism and assist in the discovery of oil discharges.
- (h) Facility tank car and tank truck loading/unloading rack (excluding offshore facilities).
- (1) Where loading/unloading rack drainage does not flow into a catchment basin or treatment facility designed to handle discharges, use a quick drainage system for tank car or tank truck loading/unloading racks. You must design any containment system to hold at least the maximum capacity of any single compartment of a tank car or tank truck loaded or unloaded at the facility.
 - (2) Provide an interlocked warning light or physical barrier system, warning signs, wheel chocks or vehicle brake interlock system in the area adjacent to a loading/unloading rack, to prevent vehicles from departing before complete disconnection of flexible or fixed oil transfer lines.
 - (3) Prior to filling and departure of any tank car or tank truck, closely inspect for discharges the lowermost drain and all outlets of such vehicles, and if necessary, ensure that they are tightened, adjusted, or replaced to prevent liquid discharge while in transit.
- (i) If a field-constructed aboveground container undergoes a repair, alteration, reconstruction, or a change in service that might affect the risk of a discharge or failure due to brittle fracture or other catastrophe, or has discharged oil or failed due to brittle fracture failure or other catastrophe, evaluate the container for risk of discharge or failure due to brittle fracture or other catastrophe, and as necessary, take appropriate action.
- (j) In addition to the minimal prevention standards listed under this section, include in your Plan a complete discussion of conformance with the applicable requirements and other effective discharge prevention and containment procedures listed in this part or any applicable more stringent State rules, regulations, and guidelines.

Spill Prevention, Control, and Countermeasures Plan

Last Modified: June 30, 2016

Page | 47 of 57



Carlisle Mine
MSHA ID: 12-02349

(k) Qualified Oil-filled Operational Equipment. The owner or operator of a facility with oil-filled operational equipment that meets the qualification criteria in paragraph (k)(1) of this sub-section may choose to implement for this qualified oil-filled operational equipment the alternate requirements as described in paragraph (k)(2) of this sub-section in lieu of general secondary containment required in paragraph (c) of this section.

(1) Qualification Criteria—Reportable Discharge History: The owner or operator of a facility that has had no single discharge as described in §112.1(b) from any oil-filled operational equipment exceeding 1,000 U.S. gallons or no two discharges as described in §112.1(b) from any oil-filled operational equipment each exceeding 42 U.S. gallons within any twelve month period in the three years prior to the SPCC Plan certification date, or since becoming subject to this part if the facility has been in operation for less than three years (other than oil discharges as described in §112.1(b) that are the result of natural disasters, acts of war or terrorism); and

(2) Alternative Requirements to General Secondary Containment. If secondary containment is not provided for qualified oil-filled operational equipment pursuant to paragraph (c) of this section, the owner or operator of a facility with qualified oil-filled operational equipment must:

- (i) Establish and document the facility procedures for inspections or a monitoring program to detect equipment failure and/or a discharge; and
- (ii) Unless you have submitted a response plan under §112.20, provide in your Plan the following:

(A) An oil spill contingency plan following the provisions of part 109 of this chapter.

(B) A written commitment of manpower, equipment, and materials required to expeditiously control and remove any quantity of oil discharged that may be harmful.

[67 FR 47140, July 17, 2002, as amended at 71 FR 77292, Dec. 26, 2006; 73 FR 74303, Dec. 5, 2008; 74 FR 58810, Nov. 13, 2009]

Subpart B—Requirements for Petroleum Oils and Non-Petroleum Oils, Except Animal Fats and Oils and Greases, and Fish and Marine Mammal Oils; and Vegetable Oils (Including Oils from Seeds, Nuts, Fruits, and Kernels)

§112.8 Spill Prevention, Control, and Countermeasure Plan requirements for onshore facilities (excluding production facilities).

If you are the owner or operator of an onshore facility (excluding a production facility), you must:

(a) Meet the general requirements for the Plan listed under §112.7, and the specific discharge prevention and containment procedures listed in this section.

(b) Facility drainage.

(1) Restrain drainage from diked storage areas by valves to prevent a discharge into the drainage system or facility effluent treatment system, except where facility systems are designed to control such discharge. You may empty diked areas by pumps or ejectors; however, you must manually activate these pumps or ejectors and must inspect the condition of the accumulation before starting, to ensure no oil will be discharged.

(2) Use valves of manual, open-and-closed design, for the drainage of diked areas. You may not use flapper-type drain valves to drain diked areas. If your facility drainage drains directly into a watercourse and not into an on-site wastewater treatment plant, you must inspect and may drain uncontaminated retained stormwater, as provided in paragraphs (c)(3)(ii), (iii), and (iv) of this section.

(3) Design facility drainage systems from undiked areas with a potential for a discharge (such as where piping is located outside containment walls or where tank truck discharges may occur outside the loading area) to flow into ponds, lagoons, or catchment basins designed to retain oil or return it to the facility. You must not locate catchment basins in areas subject to periodic flooding.

(4) If facility drainage is not engineered as in paragraph (b)(3) of this section, equip the final discharge of all ditches inside the facility with a diversion system that would, in the event of an uncontrolled discharge, retain oil in the facility.

(5) Where drainage waters are treated in more than one treatment unit and such treatment is continuous, and pump transfer is needed, provide two "lift" pumps and permanently install at least one of the pumps. Whatever techniques you use, you must engineer facility drainage systems to prevent a discharge as described in §112.1(b) in case there is an equipment failure or human error at the facility.

(c) Bulk storage containers.

(1) Not use a container for the storage of oil unless its material and construction are compatible with the material stored and conditions of storage such as pressure and temperature.

(2) Construct all bulk storage tank installations (except mobile refuelers and other non-transportation-related tank trucks) so that you provide a secondary means of containment for the entire capacity of the largest single container and sufficient freeboard to contain precipitation. You must ensure that diked areas are sufficiently impervious to contain discharged oil. Dikes, containment curbs, and pits are commonly employed for this purpose. You may also use an alternative system consisting of a drainage trench enclosure that must be arranged so that any discharge will terminate and be safely confined in a facility catchment basin or holding pond.

(3) Not allow drainage of uncontaminated rainwater from the diked area into a storm drain or discharge of an effluent into an open watercourse, lake, or pond, bypassing the facility treatment system unless you:

- (i) Normally keep the bypass valve sealed closed.
- (ii) Inspect the retained rainwater to ensure that its presence will not cause a discharge as described in §112.1(b).
- (iii) Open the bypass valve and reseal it following drainage under responsible supervision; and
- (iv) Keep adequate records of such events, for example, any records required under permits issued in accordance with §§122.41(j)(2) and 122.41(m)(3) of this chapter.

(4) Protect any completely buried metallic storage tank installed on or after January 10, 1974 from corrosion by coatings or cathodic protection compatible with local soil conditions. You must regularly leak test such completely buried metallic storage tanks.

(5) Not use partially buried or bunkered metallic tanks for the storage of oil, unless you protect the buried section of the tank from corrosion. You must protect partially buried and bunkered tanks from corrosion by coatings or cathodic protection compatible with local soil conditions.

Spill Prevention, Control, and Countermeasures Plan

Last Modified: June 30, 2016

NEICVP1179E01

Appendix N
Page 48 of 57

Page | 48 of 57

Sunrise Coal, LLC
Carlisle, Indiana



Carlisle Mine
MSHA ID: 12-02349

- (6) Test or inspect each aboveground container for integrity on a regular schedule and whenever you make material repairs. You must determine, in accordance with industry standards, the appropriate qualifications for personnel performing tests and inspections, the frequency and type of testing and inspections, which take into account container size, configuration, and design (such as containers that are: shop-built, field-erected, skid-mounted, elevated, equipped with a liner, double-walled, or partially buried). Examples of these integrity tests include, but are not limited to: visual inspection, hydrostatic testing, radiographic testing, ultrasonic testing, acoustic emissions testing, or other systems of non-destructive testing. You must keep comparison records and you must also inspect the container's supports and foundations. In addition, you must frequently inspect the outside of the container for signs of deterioration, discharges, or accumulation of oil inside diked areas. Records of inspections and tests kept under usual and customary business practices satisfy the recordkeeping requirements of this paragraph.
- (7) Control leakage through defective internal heating coils by monitoring the steam return and exhaust lines for contamination from internal heating coils that discharge into an open watercourse, or pass the steam return or exhaust lines through a settling tank, skimmer, or other separation or retention system.
- (8) Engineer or update each container installation in accordance with good engineering practice to avoid discharges. You must provide at least one of the following devices
 - (i) High liquid level alarms with an audible or visual signal at a constantly attended operation or surveillance station. In smaller facilities an audible air vent may suffice.
 - (ii) High liquid level pump cutoff devices set to stop flow at a predetermined container content level.
 - (iii) Direct audible or code signal communication between the container gauger and the pumping station.
 - (iv) A fast response system for determining the liquid level of each bulk storage container such as digital computers, telepulse, or direct vision gauges. If you use this alternative, a person must be present to monitor gauges and the overall filling of bulk storage containers.
 - (v) You must regularly test liquid level sensing devices to ensure proper operation.
- (9) Observe effluent treatment facilities frequently enough to detect possible system upsets that could cause a discharge as described in §112.1(b).
- (10) Promptly correct visible discharges which result in a loss of oil from the container, including but not limited to seams, gaskets, piping, pumps, valves, rivets, and bolts. You must promptly remove any accumulations of oil in diked areas.
- (11) Position or locate mobile or portable oil storage containers to prevent a discharge as described in §112.1(b). Except for mobile refuelers and other non-transportation-related tank trucks, you must furnish a secondary means of containment, such as a dike or catchment basin, sufficient to contain the capacity of the largest single compartment or container with sufficient freeboard to contain precipitation.
- (d) Facility transfer operations, pumping, and facility process.
 - (1) Provide buried piping that is installed or replaced on or after August 16, 2002, with a protective wrapping and coating. You must also cathodically protect such buried piping installations or otherwise satisfy the corrosion protection standards for piping in part 280 of this chapter or a State program approved under part 281 of this chapter. If a section of buried line is exposed for any reason, you must carefully inspect it for deterioration. If you find corrosion damage, you must undertake additional examination and corrective action as indicated by the magnitude of the damage.
 - (2) Cap or blank-flange the terminal connection at the transfer point and mark it as to origin when piping is not in service or is in standby service for an extended time.
 - (3) Properly design pipe supports to minimize abrasion and corrosion and allow for expansion and contraction.
 - (4) Regularly inspect all aboveground valves, piping, and appurtenances. During the inspection you must assess the general condition of items, such as flange joints, expansion joints, valve glands and bodies, catch pans, pipeline supports, locking of valves, and metal surfaces. You must also conduct integrity and leak testing of buried piping at the time of installation, modification, construction, relocation, or replacement.
 - (5) Warn all vehicles entering the facility to be sure that no vehicle will endanger aboveground piping or other oil transfer operations.

[67 FR 47146, July 17, 2002, as amended at 71 FR 77293, Dec. 26, 2006; 73 FR 74304, Dec. 5, 2008]

Spill Prevention, Control, and Countermeasures Plan

Last Modified: June 30, 2016

NEICVP1179E01

Appendix N
Page 49 of 57

Page | 49 of 57
Sunrise Coal, LLC
Carlisle, Indiana



Carlisle Mine
MSHA ID: 12-02349

Appendix B

Article 2. Water Quality Standards

Rule 6.1 – Spills; Reporting, Containment, and Response

327 IAC 2-6.1 (Indiana Spill Rules)

327 IAC 2-6.1-1 Applicability

Authority: IC 13-14-8-7

Affected: IC 13-11-2; IC 13-18-1; IC 13-18-3; IC 13-18-8; IC 13-18-17

Sec. 1. This rule applies to the reporting and containment of, and the response to those spills of hazardous substances, extremely hazardous substances, petroleum, and objectionable substances that are of a quantity, type, duration and in a location as to damage the waters of the state. Nothing in this rule is intended to affect reporting or clean-up requirements set forth by other federal, state, or local laws. (Water Pollution Control Division; 327 IAC 2-6.1-1; filed Feb 25, 1997, 1:00 p.m.: 20 IR 1731; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; readopted filed Nov 21, 2007, 1:16 p.m.: 20071219-IR-327070553BFA; readopted filed Jul 29, 2013, 9:21 a.m.: 20130828-IR-327130176BFA)

327 IAC 2-6.1-2 Special areas

Authority: IC 13-14-8-7

Affected: IC 13-11-2; IC 13-18-1; IC 13-18-3; IC 13-18-8; IC 13-18-17

Sec. 2. Certain areas of the state are recognized as having unique geology. A large section of the mid-southern part of the state is a karst region. Portions of Saint Joseph, Elkhart, Kosciusko, and LaGrange Counties contain a sole source aquifer as referenced in 42 U.S.C. 300h-3(e). The waters of the state are particularly vulnerable to damage from spills in these areas, and care should be exercised when evaluating damage from spills. Information about these areas can be obtained by calling the Department of Environmental Management, Office of Land Quality, Emergency Response Section: Area Code 1-888-233-7745 for in-state calls (toll free), (317) 233-7745 for out-of-state calls. (Water Pollution Control Division; 327 IAC 2-6.1-2; filed Feb 25, 1997, 1:00 p.m.: 20 IR 1731; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; readopted filed Nov 21, 2007, 1:16 p.m.: 20071219-IR-327070553BFA; errata filed May 27, 2008, 2:06 p.m.: 20080625-IR-327080419ACA; readopted filed Jul 29, 2013, 9:21 a.m.: 20130828-IR-327130176BFA)

327 IAC 2-6.1-3 Exclusions

Authority: IC 13-14-8-7

Affected: IC 13-11-2; IC 13-18-1; IC 13-18-3; IC 13-18-8; IC 13-18-17

Sec. 3. Notwithstanding any other section of this rule, the reporting requirement of this rule does not apply to the following occurrences:

- (1) Discharges or exceedances that are under the jurisdiction of an applicable permit when the substance in question is covered by the permit and death or acute injury or illness to animals or humans does not occur.
- (2) Lawful application of materials, including, but not limited to:
 - (A) commercial or natural fertilizers and pesticides on or to land or water; or
 - (B) dust suppression materials.
- (3) The application of petroleum necessary for construction that does not damage waters of the state.
- (4) Spills of less than one (1) pound or one (1) pint.
- (5) Spills of integral operating fluids, in the use of motor vehicles or other equipment, the total volume of which is less than or equal to fifty-five (55) gallons and which do not damage waters of the state.
- (6) Oil sheens produced as a result of the normal operation of properly functioning watercraft.
- (7) A release of a substance integral to a spill response activity that has been approved and authorized by a state or federal on-scene coordinator.

(Water Pollution Control Division; 327 IAC 2-6.1-3; filed Feb 25, 1997, 1:00 p.m.: 20 IR 1731; errata filed Mar 7, 1997, 2:25 p.m.: 20 IR 1738; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; readopted filed Nov 21, 2007, 1:16 p.m.: 20071219-IR-327070553BFA; readopted filed Jul 29, 2013, 9:21 a.m.: 20130828-IR-327130176BFA)



Carlisle Mine
MSHA ID: 12-02349

327 IAC 2-6.1-4 Definitions

Authority: IC 13-14-8-7

Affected: IC 13-11-2; IC 13-18-1; IC 13-18-3; IC 13-18-8; IC 13-18-17; IC 14-8-2-7; IC 14-25-7-13; IC 14-25-7-15

Sec. 4. In addition to the definitions contained in IC 13-11-2-17(d), IC 13-11-2-35(a), IC 13-11-2-51, IC 13-11-2-158(a), IC 13-11-2-160, IC 13-11-2-260, IC 13-11-2-265, and in 327 IAC 1, the following definitions apply throughout this rule:

- (1) "Animal" means all mammals, birds, reptiles, amphibians, fish, crustaceans, and mollusks.
- (2) "Aquatic life" means those plants and macroinvertebrates that are dependent upon an aquatic environment.
- (3) "Contain" means to take such immediate action as necessary to dam, block, restrain, or otherwise act to most effectively prevent a spill from entering waters of the state or minimize damage to the waters of the state from a spill.
- (4) "Damage" means the actual or imminent alteration of the waters of the state so as to render the waters harmful, detrimental, or injurious to:
 - (A) public health, safety, or welfare;
 - (B) domestic, commercial, industrial, agricultural, or recreational uses; or
 - (C) animals or aquatic life.
- (5) "Downstream water user" means:
 - (A) a community public water supply, as identified by the department of natural resources under IC 14-25-7-13(d);
 - (B) a significant water withdrawal facility as registered with the department of natural resources under IC 14-25-7-15;
 - (C) users of recreational waters; or
 - (D) any other user made known to the person who has a spill.
- (6) "Extremely hazardous substance" means a substance identified pursuant to 42 U.S.C. 11002 and 11004. (40 CFR 355 Appendix A.)
- (7) "Facility" means all land, buildings, equipment, structures, and other stationary items that are located on a single site or on contiguous sites and that are owned or operated by the same person or by any person who controls, is controlled by, or is under common control with, such person.
- (8) "Facility boundary" means the boundary of a facility or an easement or right-of-way.
- (9) "Hazardous substance" has the meaning set forth in 42 U.S.C. 9601(14).
- (10) "Mode of transportation" includes, but is not limited to, carriage by:
 - (A) rail and motor vehicles;
 - (B) aircraft;
 - (C) watercraft;
 - (D) pipelines; or
 - (E) other means of transportation;
 in commerce. This definition excludes carriage within a facility by transportation equipment owned, operated, or controlled by that facility.
- (11) "Objectionable substances" means substances that are:
 - (A) of a quantity and a type; and
 - (B) present for a duration and in a location;
 so as to damage waters of the state. This definition excludes hazardous substances, extremely hazardous substances, petroleum, and mixtures thereof.
- (12) "On-scene coordinator" means a state or federal official designated by the department, the United States Environmental Protection Agency, or the United States Coast Guard to direct and coordinate special spill response activities.
- (13) "Recreational waters" means any water used for:
 - (A) boating, swimming, fishing, hunting, trapping, or wildlife viewing; or
 - (B) public access areas that are owned by the department of natural resources or the federal government;
 as listed by the department.
- (14) "Reportable quantity" means the amount of a hazardous substance or extremely hazardous substance that is required to be reported under federal law under 42 U.S.C. 9602(a) and (b) and 42 U.S.C. 9603(a). (40 CFR 302.4 or 40 CFR 355 Appendix A.)
- (15) "Spill" means any unexpected, unintended, abnormal, or unapproved dumping, leakage, drainage, seepage, discharge or other loss of petroleum, hazardous substances, extremely hazardous substances, or objectionable substances. The term does not include releases to impermeable surfaces when the substance does not migrate off the surface or penetrate the surface and enter the soil.
- (16) "Spill response", for purposes of this rule, means the following:
 - (A) The spill is contained; and
 - (B) Free material is removed or neutralized.
- (17) "Spill report" means an oral report that includes the following information about a spill, to the extent that the information is known at the time of the report:
 - (A) The name, address, and telephone number of the person making the spill report.
 - (B) The name, address, and telephone number of a contact person if different from clause (A).
 - (C) The location of the spill.
 - (D) The time of the spill.
 - (E) The identification of the substance spilled.
 - (F) The approximate quantity of the substance that has been or may further be spilled.
 - (G) The duration of the spill.
 - (H) The source of the spill.
 - (I) Name and location of the waters damaged.
 - (J) The identity of any response organization responding to the spill.
 - (K) What measures have been or will be undertaken to perform a spill response.
 - (L) Any other information that may be significant to the response action.

Spill Prevention, Control, and Countermeasures Plan

Last Modified: June 30, 2016

NEICVP1179E01

Appendix N
Page 51 of 57

Page | 51 of 57
Sunrise Coal, LLC
Carlisle, Indiana



Carlisle Mine
MSHA ID: 12-02349

(18) "Waters", as defined in IC 13-11-2-265, means the accumulations of water, surface and underground, natural and artificial, public and private, or parts thereof, that are wholly or partially within, flow through, or border upon this state. The term does not include any private pond or any off-stream pond, reservoir, or facility built for reduction or control of pollution or cooling of water prior to discharge unless the discharge from the pond, reservoir, or facility causes or threatens to cause water pollution.

(Water Pollution Control Division; 327 IAC 2-6.1-4; filed Feb 25, 1997, 1:00 p.m.: 20 IR 1731; errata filed Mar 7, 1997, 2:25 p.m.: 20 IR 1738; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; readopted filed Nov 21, 2007, 1:16 p.m.: 20071219-IR-327070553BFA; readopted filed Jul 29, 2013, 9:21 a.m.: 20130828-IR-327130176BFA)

327 IAC 2-6.1-5 Reportable spills; facility

Authority: IC 13-14-8-7

Affected: IC 13-11-2; IC 13-18-1; IC 13-18-3; IC 13-18-8; IC 13-18-17

Sec. 5. The following spills from a facility must be reported:

- (1) Spills that damage the waters of the state so as to cause death or acute injury or illness to humans or animals.
- (2) Spills from a facility that has been notified in writing by a water utility that it is located in a delineated public water supply wellhead protection area as approved by the department under 327 IAC 8-4.1 that are spills of:
 - (A) hazardous substances or extremely hazardous substances when the amount spilled exceeds one hundred (100) pounds or the reportable quantity, whichever is less;
 - (B) petroleum when the amount spilled exceeds fifty-five (55) gallons; or
 - (C) objectionable substances as defined in section 4(11) of this rule.
- (3) Spills that damage waters of the state and that are located:
 - (A) within fifty (50) feet of a known private drinking water well located beyond the facility property boundary; or
 - (B) within one hundred (100) yards of:
 - (i) any high quality water classified as an outstanding state resource water listed in 327 IAC 2-1-11(b), 327 IAC 2-1.3-3(d), or 327 IAC 2-1.5-19(b), excluding Lake Michigan;
 - (ii) any water designated as capable of supporting a salmonid fishery pursuant to 327 IAC 2-1-6(c)(1) or 327 IAC 2-1.5-5(a)(3), except Lake Michigan; or
 - (iii) any water that is a fish hatchery, fish and wildlife area, nature preserve, or recreational water owned by the department of natural resources or the federal government.
- (4) For any spill that does not meet the criteria in subdivisions (1) through (3), the following must be reported:
 - (A) Spills to surface waters that include one (1) or more of the following:
 - (i) Hazardous substances or extremely hazardous substances when the amount spilled exceeds one hundred (100) pounds or the reportable quantity, whichever is less.
 - (ii) Petroleum of such quantity as to cause a sheen upon the waters.
 - (iii) Objectionable substances as defined in section 4(11) of this rule.
 - (B) Spills to soil beyond the facility boundary that include one (1) or more of the following:
 - (i) Hazardous substances or extremely hazardous substances when the amount spilled exceeds one hundred (100) pounds or the reportable quantity, whichever is less.
 - (ii) Petroleum when the amount spilled exceeds fifty-five (55) gallons.
 - (iii) Objectionable substances as defined in section 4(11) of this rule.
 - (C) Spills to soil within the facility boundary that include one (1) or more of the following:
 - (i) Hazardous substances or extremely hazardous substances when the amount spilled exceeds the reportable quantity.
 - (ii) Petroleum when the spilled amount exceeds one thousand (1,000) gallons.
 - (iii) Objectionable substances as defined in section 4(11) of this rule.
- (5) Any spill for which a spill response has not been done.

(Water Pollution Control Division; 327 IAC 2-6.1-5; filed Feb 25, 1997, 1:00 p.m.: 20 IR 1732; errata filed Mar 7, 1997, 2:25 p.m.: 20 IR 1738; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; readopted filed Nov 21, 2007, 1:16 p.m.: 20071219-IR-327070553BFA; readopted filed Jul 29, 2013, 9:21 a.m.: 20130828-IR-327130176BFA; filed Nov 10, 2014, 1:51 p.m.: 20141210-IR-327130290FRA)

Spill Prevention, Control, and Countermeasures Plan

Last Modified: June 30, 2016

NEICVP1179E01

Appendix N
Page 52 of 57

Page | 52 of 57

Sunrise Coal, LLC
Carlisle, Indiana



Carlisle Mine
MSHA ID: 12-02349

327 IAC 2-6.1-6 Reportable spills; transportation

Authority: IC 13-14-8-7

Affected: IC 13-11-2; IC 13-18-1; IC 13-18-3; IC 13-18-8; IC 13-18-17

Sec. 6. The following spills from a mode of transportation must be reported:

- (1) Spills that damage the waters of the state so as to cause death or acute injury or illness to humans or animals.
- (2) Spills that damage surface waters.
- (3) Spills to soil:

- (A) spills of hazardous substances or extremely hazardous substances when the amount spilled exceeds one hundred (100) pounds or the reportable quantity, whichever is less;
- (B) spills of petroleum when the amount spilled exceeds fifty-five (55) gallons; or
- (C) spills of objectionable substances as defined in section 4(11) of this rule.

- (4) Any spill for which a spill response has not been done.

(Water Pollution Control Division; 327 IAC 2-6.1-6; filed Feb 25, 1997, 1:00 p.m.: 20 IR 1733; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; readopted filed Nov 21, 2007, 1:16 p.m.: 20071219-IR-327070553BFA; readopted filed Jul 29, 2013, 9:21 a.m.: 20130828-IR-327130176BFA)

327 IAC 2-6.1-7 Reportable spills; responsibilities

Authority: IC 13-14-8-7

Affected: IC 13-11-2; IC 13-18-1; IC 13-18-3; IC 13-18-8; IC 13-18-17

Sec. 7. Any person who operates, controls, or maintains any mode of transportation or facility from which a spill occurs shall, upon discovery of a reportable spill to the soil or surface waters of the state, do the following:

- (1) Contain the spill, if possible, to prevent additional spilled material from entering the waters of the state.
- (2) Undertake or cause others to undertake activities needed to accomplish a spill response.
- (3) As soon as possible, but within two (2) hours of discovery, communicate a spill report to the Department of Environmental Management, Office of Land Quality, Emergency Response Section: Area Code 1-888-233-7745 for in-state calls (toll free), (317) 233-7745 for out-of-state calls. If new or updated spill report information becomes known that indicates a significant increase in the likelihood of damage to the waters of the state, the responsible party shall notify the department as soon as possible but within two (2) hours of the time the new or updated information becomes known.
- (4) Submit to the Indiana Department of Environmental Management, Office of Land Quality, Emergency Response Section (MC 66-30), 2525 N. Shadeland Ave., Suite 100, Indianapolis, IN 46219-1787, a written copy of the spill report if requested in writing by the department.
- (5) Except from modes of transportation other than pipelines, exercise due diligence and document attempts to notify the following:
 - (A) For spills to surface water that cause damage, the nearest affected downstream water user located within ten (10) miles of the spill and in the state of Indiana; and
 - (B) For spills to soil outside the facility boundary, the affected property owner or owners, operator or operators, or occupant or occupants.

(Water Pollution Control Division; 327 IAC 2-6.1-7; filed Feb 25, 1997, 1:00 p.m.: 20 IR 1733; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; errata filed Feb 6, 2006, 11:15 a.m.: 29 IR 1936; errata filed Oct 20, 2006, 10:08 a.m.: 20061101-IR-327060497ACA; readopted filed Nov 21, 2007, 1:16 p.m.: 20071219-IR-327070553BFA; errata filed May 27, 2008, 2:06 p.m.: 20080625-IR-327080419ACA; readopted filed Jul 29, 2013, 9:21 a.m.: 20130828-IR-327130176BFA)

327 IAC 2-6.1-8 Emergency spill response actions

Authority: IC 13-14-8-7

Affected: IC 13-11-2; IC 13-18-1; IC 13-18-3; IC 13-18-8; IC 13-18-17

Sec. 8. Notwithstanding any other section of this rule, emergency spill response actions take precedence over reporting requirements, and when emergency spill response activities render spill reporting inconsistent with effective response activities, communication of the spill report to the Indiana department of environmental management may be delayed. In situations where the spill report is delayed, the burden of proving the need for the delay shall be upon the responsible person.

(Water Pollution Control Division; 327 IAC 2-6.1-8; filed Feb 25, 1997, 1:00 p.m.: 20 IR 1734; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; readopted filed Nov 21, 2007, 1:16 p.m.: 20071219-IR-327070553BFA; readopted filed Jul 29, 2013, 9:21 a.m.: 20130828-IR-327130176BFA)

327 IAC 2-6.1-9 Compliance confirmation

Authority: IC 13-14-8-7

Affected: IC 13-11-2; IC 13-18-1; IC 13-18-3; IC 13-18-8; IC 13-18-17

Sec. 9. When spill reporting and response, as provided for in this rule, has occurred, the department shall, upon request, issue a letter confirming compliance with this rule and stating that no further action is required under this rule.

(Water Pollution Control Division; 327 IAC 2-6.1-9; filed Feb 25, 1997, 1:00 p.m.: 20 IR 1734; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; readopted filed Nov 21, 2007, 1:16 p.m.: 20071219-IR-327070553BFA; readopted filed Jul 29, 2013, 9:21 a.m.: 20130828-IR-327130176BFA)

Spill Prevention, Control, and Countermeasures Plan

Last Modified: June 30, 2016

NEICVP1179E01

Appendix N
Page 53 of 57

Page | 53 of 57
Sunrise Coal, LLC
Carlisle, Indiana



Carlisle Mine
MSHA ID: 12-02349

Appendix C

Title 40: Protection of Environment

Part 109 – Criteria for State, Local and Regional Oil Removal Contingency Plans

40 CFR 109 (Spill Contingency Plan Rules)

Authority: Sec. 11(j)(1)(B), 84 Stat. 96, 33 U.S.C. 1161(j)(1)(B). Source: 36 FR 22485, Nov. 25, 1971, unless otherwise noted.

§109.1 Applicability.

The criteria in this part are provided to assist State, local and regional agencies in the development of oil removal contingency plans for the inland navigable waters of the United States and all areas other than the high seas, coastal and contiguous zone waters, coastal and Great Lakes ports and harbors and such other areas as may be agreed upon between the Environmental Protection Agency and the Department of Transportation in accordance with section 11(j)(1)(B) of the Federal Act, Executive Order No. 11548 dated July 20, 1970 (35 FR 11677) and §306.2 of the National Oil and Hazardous Materials Pollution Contingency Plan (35 FR 8511).

§109.2 Definitions.

As used in these guidelines, the following terms shall have the meaning indicated below:

- (a) Oil means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil.
- (b) Discharge includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying, or dumping.
- (c) Remove or removal refers to the removal of the oil from the water and shorelines or the taking of such other actions as may be necessary to minimize or mitigate damage to the public health or welfare, including, but not limited to, fish, shellfish, wildlife, and public and private property, shorelines, and beaches.
- (d) Major disaster means any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, earthquake, drought, fire, or other catastrophe in any part of the United States which, in the determination of the President, is or threatens to become of sufficient severity and magnitude to warrant disaster assistance by the Federal Government to supplement the efforts and available resources of States and local governments and relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.
- (e) United States means the States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.
- (f) Federal Act means the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1151 et seq.

§109.3 Purpose and scope.

The guidelines in this part establish minimum criteria for the development and implementation of State, local, and regional contingency plans by State and local governments in consultation with private interests to insure timely, efficient, coordinated and effective action to minimize damage resulting from oil discharges. Such plans will be directed toward the protection of the public health or welfare of the United States, including, but not limited to, fish, shellfish, wildlife, and public and private property, shorelines, and beaches. The development and implementation of such plans shall be consistent with the National Oil and Hazardous Materials Pollution Contingency Plan. State, local and regional oil removal contingency plans shall provide for the coordination of the total response to an oil discharge so that contingency organizations established thereunder can function independently, in conjunction with each other, or in conjunction with the National and Regional Response Teams established by the National Oil and Hazardous Materials Pollution Contingency Plan.

§109.4 Relationship to Federal response actions.

The National Oil and Hazardous Materials Pollution Contingency Plan provides that the Federal on-scene commander shall investigate all reported spills. If such investigation shows that appropriate action is being taken by either the discharger or non-Federal entities, the Federal on-scene commander shall monitor and provide advice or assistance, as required. If appropriate containment or cleanup action is not being taken by the discharger or non-Federal entities, the Federal on-scene commander will take control of the response activity in accordance with section 11(c)(1) of the Federal Act.



Carlisle Mine
MSHA ID: 12-02349

§109.5 Development and implementation criteria for State, local and regional oil removal contingency plans.

Criteria for the development and implementation of State, local and regional oil removal contingency plans are:

- (a) Definition of the authorities, responsibilities and duties of all persons, organizations or agencies which are to be involved or could be involved in planning or directing oil removal operations, with particular care to clearly define the authorities, responsibilities and duties of State and local governmental agencies to avoid unnecessary duplication of contingency planning activities and to minimize the potential for conflict and confusion that could be generated in an emergency situation as a result of such duplications.
- (b) Establishment of notification procedures for the purpose of early detection and timely notification of an oil discharge including:
 - (1) The identification of critical water use areas to facilitate the reporting of and response to oil discharges.
 - (2) A current list of names, telephone numbers and addresses of the responsible persons and alternates on call to receive notification of an oil discharge as well as the names, telephone numbers and addresses of the organizations and agencies to be notified when an oil discharge is discovered.
 - (3) Provisions for access to a reliable communications system for timely notification of an oil discharge and incorporation in the communications system of the capability for interconnection with the communications systems established under related oil removal contingency plans, particularly State and National plans.
 - (4) An established, prearranged procedure for requesting assistance during a major disaster or when the situation exceeds the response capability of the State, local or regional authority.
- (c) Provisions to assure that full resource capability is known and can be committed during an oil discharge situation including:
 - (1) The identification and inventory of applicable equipment, materials and supplies which are available locally and regionally.
 - (2) An estimate of the equipment, materials and supplies which would be required to remove the maximum oil discharge to be anticipated.
 - (3) Development of agreements and arrangements in advance of an oil discharge for the acquisition of equipment, materials and supplies to be used in responding to such a discharge.
- (d) Provisions for well defined and specific actions to be taken after discovery and notification of an oil discharge including:
 - (1) Specification of an oil discharge response operating team consisting of trained, prepared and available operating personnel.
 - (2) Predesignation of a properly qualified oil discharge response coordinator who is charged with the responsibility and delegated commensurate authority for directing and coordinating response operations and who knows how to request assistance from Federal authorities operating under existing national and regional contingency plans.
 - (3) A preplanned location for an oil discharge response operations center and a reliable communications system for directing the coordinated overall response operations.
 - (4) Provisions for varying degrees of response effort depending on the severity of the oil discharge.
 - (5) Specification of the order of priority in which the various water uses are to be protected where more than one water use may be adversely affected as a result of an oil discharge and where response operations may not be adequate to protect all uses.
- (e) Specific and well defined procedures to facilitate recovery of damages and enforcement measures as provided for by State and local statutes and ordinances.

§109.6 Coordination.

For the purposes of coordination, the contingency plans of State and local governments should be developed and implemented in consultation with private interests. A copy of any oil removal contingency plan developed by State and local governments should be forwarded to the Council on Environmental Quality upon request to facilitate the coordination of these contingency plans with the National Oil and Hazardous Materials Pollution Contingency Plan.



Carlisle Mine
MSHA ID: 12-02349

Appendix D

40 CFR 112 Federal Register / Vol. 67, No. 137

Rules and Regulations / Wednesday, July 17, 2002 *(Selected Text)*

...at some remote mobile or production facilities, owners or operators dig trenches and line them for containment or retention of drilling fluids. Technologies used at offshore facilities to catch or contain oil may also sometimes be used onshore.

While some types of secondary containment (for example, dikes or berms) may not be appropriate at certain facilities, other types (for example, diversionary systems or remote impounding) might. However, we recognize and repeat, as we noted in the 1991 preamble, that some or perhaps all types of secondary containment for certain facilities with equipment that contain oil, such as electrical equipment, may be contrary to safety factors or other good engineering practice considerations. There might be other equipment, like fired or pressurized vessels, for which safety considerations also preclude some or all types of secondary containment.

Some facilities or equipment that use but do not store oil may or may not, as a matter of good engineering practice, employ secondary containment. Such facilities might include wastewater treatment facilities, whose purpose is not to store oil, but to treat water. Other facilities that may not find the requirement practicable are those that use oil in equipment such as hydraulic equipment. Similarly, flowlines must have a program of maintenance to prevent discharges. See § 112.9(d)(3). The maintenance program may or may not include secondary containment. Owners or operators of underground piping must have some form of corrosion protection, but do not necessarily have to use secondary containment for that purpose.

As stated above, for a facility where secondary containment is not practicable, the owner or operator is not exempt from the requirement, but may instead provide a contingency plan and take other measures required under § 112.7(d). For most facilities, however, including small facilities, mobile facilities, production facilities, mining sites, and any other facilities that store or use oil, we believe that secondary containment is generally necessary and appropriate to prevent a discharge as described in § 112.1(b). Without secondary containment, discharges from containers would often reach navigable waters or adjoining shorelines, or affect natural resources.

Methods of secondary containment. The appropriate method of secondary containment is an engineering question. Earthen or natural structures may be acceptable if they contain and prevent discharges as described in § 112.1(b), including containment that prevents discharge of oil to groundwater that is connected to navigable water. What is practical for one facility, however, might not work for another. If secondary containment is not practicable, then the facility must provide a contingency plan following the provisions of 40 CFR part 109, and otherwise comply with § 112.7(d).

Double-walled or vaulted tanks. The term "vaulted tank" has been used to describe both double-walled tanks (especially those with a concrete outer shell) and tanks inside underground vaults, rooms, or crawl spaces. While double-walled or vaulted tanks are subject to secondary containment requirements, shop-fabricated double-walled aboveground storage tanks equipped with adequate technical spill and leak prevention options might provide sufficient equivalent secondary containment as that required under § 112.7(c). Such options include overfill alarms, flow shutoff or restrictor devices, and constant monitoring of product transfers. In the case of vaulted tanks, the Professional Engineer must determine whether the vault meets the requirements for secondary containment in § 112.7(c). This determination should include an evaluation of drainage systems and of sumps or pumps which could cause a discharge of oil outside the vault. Industry standards for vaulted tanks often require the vaults to be liquid tight, which if sized correctly, may meet the secondary containment requirement.

There might also be other examples of such alternative systems.

Completely buried tanks. Completely buried tanks, other than those exempted from this rule because they are subject to all technical Federal or State UST requirements, are subject to the secondary containment requirement. We realize that the concept of freeboard for precipitation is inapplicable to secondary containment for completely buried tanks. The requirement for secondary containment may be satisfied in any of the ways listed in the rule or their equivalent.

72-hour impermeability standard. We are withdrawing the proposal for the 72-hour impermeability standard and will retain the current standard that dikes, berms, or retaining walls must be sufficiently impervious to contain oil. We agree with commenters that the purpose of secondary containment is to contain oil from escaping the facility and reaching the environment. The rationale for the 72-hour standard was to allow time for the discovery and removal of an oil spill. An owner or operator of a facility should have flexibility in how he prevents a discharge as described in § 112.1(b), and any method of containment that achieves that end is sufficient. Should such containment fail, the owner or operator must immediately clean up any discharged oil.

Similarly, because the purpose of the "sufficiently impervious" standard is to prevent discharges as described in § 112.1(b), dikes, berms, or retaining walls must be capable of containing oil and preventing such discharges. Discharges as described in § 112.1(b) may result from direct discharges from containers, or from discharges from containers to groundwater that travel through the groundwater to navigable waters. Effective containment means that the dike, berm, or retaining wall must be capable of containing oil and sufficiently impervious to prevent discharges from the containment system until it is cleaned up. The same holds true for container floors or bottoms; they must be able to contain oil to prevent a discharge as described in § 112.1(b). However, "effective containment" does not mean that liners are required for secondary containment areas. Liners are an option for meeting the secondary containment requirements, but are not required by the rule.

If you are the owner or operator of a facility subject to this part, you must prepare a Plan in accordance with good engineering practice. A complete description of how secondary containment is designed, implemented, and maintained to meet the standard of sufficiently impervious is necessary. In order to document that secondary containment is sufficiently impervious and sufficiently strong to contain oil until it is cleaned up, the Plan must describe how the secondary containment is designed to meet that standard. A written description of the sufficiently impervious standard is not only necessary for design and implementation, but will aid owners or operators of facilities in determining which practices will be necessary to maintain the standard of sufficiently impervious. Control and/or removal of vegetation may be necessary to maintain the impervious integrity of the secondary containment. Repairs of excavations or other penetrations through secondary containment will need to be conducted in accordance with good engineering practices in order to maintain the standard of sufficiently impervious. The owner or operator should monitor such imperviousness for effectiveness, in order to be sure that the method chosen remains impervious to contain oil. equipment are not bulk storage containers; the requirement is inapplicable to those devices or equipment. 56 FR 54623. Also, as noted by commenters, methods may not exist for integrity testing of such devices or equipment.

Spill Prevention, Control, and Countermeasures Plan

Last Modified: June 30, 2016

Page | 56 of 57



Carlisle Mine
MSHA ID: 12-02349

Material repairs. The rationale for testing at the time material repairs are conducted is that such repairs could materially increase the potential for oil to be discharged from the tank. Examples of such repairs include removing or replacing the annular plate ring; replacement of the container bottom; jacking of a container shell; installation of a 12-inch or larger nozzle in the shell; a door sheet, tombstone replacement in the shell, or other shell repair; or, such repairs that might materially change the potential for oil to be discharged from the container.

Method of testing. The rule requires visual testing in conjunction with another method of testing, because visual testing alone is normally insufficient to measure the integrity of a container. Visual testing alone might not detect problems which could lead to container failure. For example, studies of the 1988 Ashland oil spill suggest that the tank collapse resulted from a brittle fracture in the shell of the tank. Adequate fracture toughness of the base metal of existing tanks is an important consideration in discharge prevention, especially in cold weather. Although no definitive non-destructive test exists for testing fracture toughness, had the tank been evaluated for brittle fracture, for example under API standard 653, and had the evaluation shown that the tank was at risk for brittle fracture, the owner or operator could have taken measures to repair or modify the tank's operation to prevent failure.

For certain smaller shop-built containers in which internal corrosion poses minimal risk of failure; which are inspected at least monthly; and, for which all sides are visible (i.e., the container has no contact with the ground), visual inspection alone might suffice, subject to good engineering practice. In such case the owner or operator must explain in the Plan why visual integrity testing alone is sufficient, and provide equivalent environmental protection. 40 CFR 112.7(a)(2). However, containers which are in contact with the ground must be evaluated for integrity in accordance with industry standards and good engineering practice.

Business records. You may use usual and customary business records, at your option, for purposes of integrity testing recordkeeping. Specifically, you may use records maintained under API Standards 653 and 2610 for purposes of this section, if you choose. Other usual and customary business records either existing or to be developed in the future may also suffice. Or, you may elect to keep separate records for SPCC purposes. This section requires you to keep comparison records. Section 112.7(e) requires retention of these records for three years. You should note, however, that certain industry standards (for example, API Standards 570 and 653) may specify that an owner or operator maintain records for longer than three years.

Industry standards. Industry standards that may assist an owner or operator with integrity testing include:

- (1) API Standard 653, "Tank Inspection, Repair, Alteration, and Reconstruction"; (2) API Recommended Practice 575, "Inspection of Atmospheric and Low-Pressure Tanks;" and, (3) Steel Tank Institute Standard SP001-00, "Standard for Inspection of In-Service Shop Fabricated Aboveground Tanks for Storage of Combustible and Flammable Liquids."

Editorial changes and clarifications. In the first sentence, "Aboveground tanks shall be subject to integrity testing * * *" becomes "Test each container for integrity * * *". Also in that sentence, the phrase "or a system of non-destructive shell testing" becomes "or another system of non-destructive shell testing." The last sentence which read, " * * * the outside of the container must be frequently observed by operating personnel for signs of deterioration, leaks, * * *" becomes " * * * you must frequently inspect the outside of the container for signs of deterioration, leaks, * * *". We made that change because the requirements of this paragraph are the responsibility of the owner or operator, not of "operating personnel."

"Integrity testing" is any means to measure the strength (structural soundness) of the container shell, bottom, and/or floor to contain oil and may include leak testing to determine whether the container will discharge oil. It includes, but is not limited to, testing foundations and supports of containers. Its scope includes both the inside and outside of the container. It also includes frequent observation of the outside of the container for signs of deterioration, leaks, or accumulation of oil inside diked areas.

Section 112.8(c)(7)—Leakage; Internal Heating Coils

Background. In 1991, we proposed that the current rule on controlling leakage through defective internal heating coils should be modified to include a recommendation that retention systems be designed to hold the contents of an entire tank. We also proposed to change the current requirement to consider the feasibility of installing external heating systems into a recommendation.

Comments. One commenter proposed that instead of requiring a retention system which would hold the entire contents of a tank, that an oil/water separator might work just as well. Another commenter opposed requiring the use of oil/water separators. As to the proposed recommendation to consider use of external heating systems, one commenter objected to the cost which might be incurred. One commenter opposed the proposed recommendation due to the belief that leaks in the aboveground piping can be mitigated through daily inspections and they are often placed within secondary containment. Another commenter asserted that with drainage routed to oil/water separators or holding ponds, leak proof galleys under aboveground piping were redundant and economically unjustified.

Response to comments. The rule does not mandate the use of any specific separation or retention system. Any system that achieves the purpose of the rule is acceptable. That purpose is to prevent discharges as described in § 112.1(b) by controlling leakage.

Editorial changes and clarifications. We deleted the proposed recommendations from the rule because we do not wish to confuse the regulated public as to what is mandatory and what is discretionary. We have included only requirements in the rule.

Section 112.8(c)(8)—Good Engineering Practice—Alarm Systems

Background. In 1991, we repropose the current rule on "fail-safe" engineering. We added a proposal to allow alternate technologies. We recommended that sensing devices be tested in accordance with industry standards.

Comments. Editorial changes and clarifications. Several commenters objected to the term "fail-safe" engineering because they believe that nothing is ever fail-safe. They suggested using the term "in accordance with good engineering practice," or "consistent with accepted industry practices" instead.

Applicability. One commenter thought the proposed requirement should apply to large facilities only or facilities that were the cause of a reportable spill within the preceding three years. One commenter suggested a phase-in of the requirement.

Spill Prevention, Control, and Countermeasures Plan

Last Modified: June 30, 2016

NEICVP1179E01

Appendix N
Page 57 of 57

Page | 57 of 57

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